

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Larry Schafer
Sent: Wed 10/1/2014 3:52:10 PM
Subject: RE: Any chance you can get away for lunch today?

Question for you ...

Are you interested in the trade stuff we are pushing back on with Europe? (Duties – Anti Dumping and Countervailing)

Larry Schafer

National Biodiesel Board

O: 202.737.8801

M: 202.997.8072

LSchafer@Biodiesel.org

Biodiesel – America's Advanced Biofuel!

www.americasadvancedbiofuel.com

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From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]
Sent: Wednesday, October 01, 2014 7:34 AM
To: Larry Schafer
Subject: RE: Any chance you can get away for lunch today?

Sorry, the next couple days are really bad. I'm out Friday as well (EPA (b) (6))
EPA (b) (6)

Enjoy the weekend. EPA (b) (6) is doing well.

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

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Web: www.epa.gov

From: Larry Schafer [<mailto:lschafer@dcdiamondgroup.com>]

Sent: Wednesday, October 01, 2014 7:22 AM

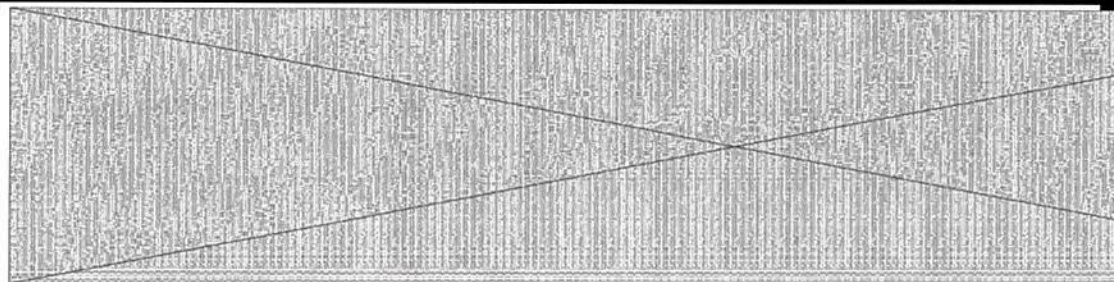
To: Argyropoulos, Paul

Subject: Any chance you can get away for lunch today?

=====
Larry Schafer

t: 202.997.8072
=====

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: BIO Industrial & Environmental News
Sent: Tue 9/30/2014 11:03:40 PM
Subject: Industrial Biotech News Clips from September 2014



[View message online](#)

Biofuels

The Hill (September 2, 2014) [The President's Biggest Enemy](#)

From the moment he took office, Obama accelerated investments into advanced biofuels and offered grant and loan financing to commercial scale production facilities. Those investments appear to have paid off handsomely for the United States, as the advanced biofuel industry is poised for continued growth and private sector investment. Enter the president's nemesis: his own administration. Late last year, petroleum refiners and oil companies and their allies prevailed on Vice President Biden to get the administration to reverse five years of support for the bipartisan Renewable Fuel Standard, or RFS — a policy that ensures consumers have access to clean, renewable fuels. In a stunning reversal, the administration proposed to reduce the renewable content of gasoline while increasing the amount of foreign oil and CO2 emissions.

Biofuels International (September 24, 2014) [New Study: EPA's Delay on RFS Rule Creating Increases in GHG Emissions](#)

The EPA's failure to finalize the 2014 Renewable Fuel Standard (RFS) rules will create an increase in greenhouse gas emissions (GHG) that is equal to placing 4.4 million additional cars on US roads. BIO has issued a white paper, 'Estimating greenhouse gas emissions from proposed changes to the renewable fuel standard through 2022', discussing estimates of GHG emissions that result from the EPA's proposal to lower biofuel use this year. In March, the original study showed that if the EPA reduced biofuel use under the RFS, the US would experience an increase in GHG emissions. The authors have now updated that study, using data from transportation fuel demand for 2013 and 2014. The US is now expected to use 2 billion gallons more petrol and 0.5 billion gallons more diesel in 2014 than previously predicted.

The Washington Post (September 23, 2014) [The Key to Better Biofuels Could be in Your Gut](#)

Scientists are on the hunt for microbes that can turn plant material into simple sugars, which can in turn be fed to yeast to produce ethanol -- a low emission, renewable fuel. Lead researcher Isaac Cann, a professor of genomic biology at the University of Illinois, was looking at microbes in cows when he made the leap. "In looking for biofuels microbes in the cow rumen, we found that *Prevotella bryantii*, a bacterium that is known to efficiently break down (the plant fiber) hemicellulose, gears up production of one gene more than others when it is digesting plant matter," Cann said in a statement. But when he and his team searched for genes similar to that one across the animal kingdom, human gut microbes popped up. As it turns out, the two bacteria (*Bacteroides intestinalis* and *Bacteroides ovatus*), which are related to the species found in cows, are actually better at breaking down plant fibers. Cann and his team are still working on confirming just how the microbes break down fiber into simple sugar -- and whether or not the bugs in our tummies could really contribute to biofuel production.

Domestic Fuel (September 22, 2014) [Is Obama His Own Worst Enemy on Climate?](#)

"The People's Climate March" has received worldwide attention to kick off Climate Week in New York and an ad in the New York Times is asking if President Obama is his own worst enemy when it comes to climate. The ad tells the president that if his administration accepts the Environmental Protection Agency's proposal to alter the Renewable Fuel Standard, he "will have inadvertently done more to damage [his] climate legacy than [his] worst enemies." In the ad, the Advanced Ethanol Council and Biotechnology Industry Organization caution President Obama that investments in additional cellulosic production beyond these four plants will likely shift overseas if the President adopts the flawed methodology of the EPA proposal, regardless of whether he decides to actually raise the renewable fuel targets in the rule.

Des Moines Register (September 16, 2014) Vilsack Sees Some Proposed Ethanol Cuts Being Restored

Speaking before a friendly audience of biofuel producers in Washington, the former Iowa governor said he was confident the administration would restore at least some of the proposed cuts to a mandate that would lower the amount of ethanol required to be blended into the country's fuel supply in 2014.

US News (September 4, 2014) Hillary Clinton: US Should Lead on Clean Energy

Former Secretary of State Hillary Rodham Clinton said Thursday the U.S. should become what she called the world's 21st-century clean energy superpower, during remarks resembling both a campaign speech and a call to action at the annual National Clean Energy Summit in Las Vegas. "Nevada was competitive because it had already invested in green energy, solar, geothermal and wind," Clinton said. A focus on the Tesla plant upstaged an earlier announcement that a northern Nevada biofuel production plant would receive a federal loan guarantee for a little under 40 percent of its \$266 million cost. The Sierra BioFuels Plant will be a neighbor with Tesla in the same industrial park in Storey County.

Biobased Products, Renewable Specialty Chemicals, and Synthetic Biology

The Hindu (September 24, 2014) Synthetic Biology: India Should Not Miss the Boat

Synthetic Biology in microbial systems can generate microbial factories to produce drugs, vaccines, fuel components and other chemicals with diverse applications and many global companies are involved in this effort. We need to build interdisciplinary research teams and also create a new institute to foster the area. iGEM (International Genetically Engineered Machines) is an international synthetic biology competition that was started for undergraduate university students, but now expanded to high school students and entrepreneurs. iGEM evolved out of student projects at MIT, USA and the first competition was held in 2004 at MIT with 5 teams and this number has increased to 254 for 2014 with teams from all over the globe. There are 84 teams from Asia with China accounting for as many as 50. I found only one team from India: IIT, Delhi! We need academia-industry collaboration to embark on innovation and move beyond reverse engineering

The Scientist (September 24, 2014) Joining Forces: Bioengineers Combine Mussel and Bacterial Proteins to Make Waterproof Glue

Bioengineers at MIT fused two different mussel foot proteins with curli fibers, which are produced by E. coli bacteria in biofilms, to create a new underwater adhesive. The glue, which the researchers presented this week (September 21) in Nature Nanotechnology, is the strongest known protein-based, underwater adhesive. The adhesive could be used to mend ships or other underwater structures, as well as to patch wounds or surgical incisions in the watery environment of the body. These applications will require producing the glue in much larger quantities than is currently possible. Previously, another group of MIT bioengineers inspired by mussels' sticky feet invented a hydrogel to coat plaques in blood vessels.

National Public Radio Cosmos & Culture (September 17, 2014) If We Create Life, Who Will Control It?

There is great financial gain in genetic engineering, an industry that Stanford bioengineering professor Drew Endy estimates equals 2 percent of the U.S. economy now, and is growing at a rate of 12 percent a year. So, as we create new life forms for all different purposes, who will control them? The stock owners of the biotech companies? The government? How will we reach a consensus in such a divisive topic?

Harvard SEAS News (September 17, 2014) Engineers Recruit Bacteria as Partners in Innovation

A team at the Wyss Institute for Biologically Inspired Engineering at Harvard University sees biofilms as a robust new platform for designer nanomaterials that could clean up polluted rivers, manufacture pharmaceutical products, fabricate new textiles, and more.

TMC News (September 16, 2014) Bioplastic Packaging Market - Global Industry Analysis and Forecast to 2020 by Persistence Market Research

Currently, bioplastic packaging market represents a small percentage of packaging market. However, bioplastic packaging is quickly gaining consumer confidence due to increasing awareness towards eco-friendly packaging substitutes.

Phys.org (September 9, 2014) Microbial Factories Could Produce Locally Brewed Painkillers

The past few decades have seen enormous progress being made in synthetic biology – the idea that simple biological parts can be tweaked to do our bidding. One of the main targets has been hacking the biological machinery that nature uses to produce chemicals. Taking a leap in that direction, researchers from Stanford University have created a version of baker's yeast (*Saccharomyces cerevisiae*) that contains genetic material of the opium poppy (*Papaver somniferum*), bringing the morphine microbial factory one step closer to reality. These results published in the journal *Nature Chemical Biology* represent a significant scientific success, but eliminating the need to grow poppies may still be years away.

Cosmetics Design-Europe (September 4, 2014) Enzyme 'Google' to Discover New Possible Reaction Pathways

The Austrian Centre of Industrial Biotechnology (acib) and the University of Graz have teamed up to develop a combination of database and search engine that can filter enzyme functions out of the thousands of protein structures used in the chemical, cosmetic and pharmaceutical industries.

ACS Sustainable Chemistry & Engineering (September 2, 2014) Implementing Green Chemistry in Chemical Manufacturing: A Survey Report

Guided by the results of a scouting survey and recent industry-wide sustainability surveys discussed in this paper, a group of chemical companies are collaborating on projects to navigate toward a common goal of sustainability. Green chemistry is being implemented in chemical manufacturing to advance sustainability. A scouting survey and recent industry-wide reports find that several green chemistry principles and related metrics are routinely being implemented in the chemical manufacturing sector. A cross-section of stakeholders surveyed agree that broader adoption of the principles of green chemistry can be promoted by collaboration among companies to identify best practices and define opportunities to increase green chemistry implementation in chemical manufacturing.

Industrial and Environmental Section Member News

Bloomberg Business Week (September 25, 2014) GranBio Begin Production of Cellulosic Ethanol at Brazil Plant

GranBio Investimentos SA, a Brazilian biotechnology company, began production at a cellulosic ethanol plant in Brazil's northeastern state of Alagoas. The Bioflex 1 plant has capacity to produce 82 million liters (22 million gallons) of ethanol a year from sugarcane waste, the closely held Sao Paulo-based company said in a conference call yesterday. GranBio invested \$190 million in the facility, which it said is the first commercial-scale cellulosic ethanol plant in the southern hemisphere.

Food Navigator (September 25, 2014) Synthetic Biology is Cheaper, Faster, and More Sustainable, says Evolva CEO: "We're Proud of What we Do"

What's more sustainable? Using acres of land, water and energy to grow plants that produce minuscule quantities of natural flavors, sweeteners or phytonutrients; or making them via a fermentation process using baker's yeast that's been engineered to produce them a thousand times more efficiently? When we think about how food is going to be produced in the future, and how we define sustainability, we should scrutinize new technology carefully, but we should also keep an open mind, says Neil Goldsmith, CEP of Swiss synthetic biology pioneer Evolva.

Biofuels Digest (September 23, 2014) Have Energy Crops Found the Inflection Point? NexSteppe Raises \$22M in Series C Financing

In California, NexSteppe, announced that it has raised \$22M in its third round of funding. New investors Total Energy Ventures and ELFH Holding GmbH, a vehicle of the Berninghausen family in Germany, a serial founder and investor in cleantech, the wood industry and real estate, join existing investors Braemar Energy Ventures, CYM Ventures, DuPont Ventures and others. The company will use the proceeds from the round to continue to improve its Polo Alto biomass sorghum and Molibu sweet sorghum product lines, already available to customers.

in Brazil and the U.S., as well as to launch additional product lines and expand its market development efforts around the world.

Chemical and Engineering News (September 22, 2014) Food Makers to Revamp Additive Safety Process

Senomyx, a chemistry-based flavor discovery firm, issued a press release last March announcing its new Sweetmyx sweetness enhancer "has been determined to be Generally Recognized As Safe (GRAS) under the provisions of the Federal Food, Drug & Cosmetic Act, administered by the U.S. Food & Drug Administration."... Soon thereafter FDA put out its own statement saying, "In fact, the agency had not made this determination nor had it been notified by Senomyx regarding a GRAS determination for this food ingredient."

Senomyx then issued a clarification, explaining that the designation came from an expert panel of an industry group, the Flavor & Extract Manufacturers Association of the U.S., or FEMA... The confusion over who gave Sweetmyx its blessing came about because, despite implications to the contrary, GRAS status does not necessarily bring with it a federal imprimatur... Now, the Grocery Manufacturers Association, a trade group for food and beverage companies, is stepping in with an initiative that it says will increase transparency and improve the processes the industry uses to assess ingredients... GMA will develop a "state of the art" standard for GRAS determinations. It will also sponsor a database that will list information on all GRAS assessments conducted by the food industry and be available to FDA and other stakeholders, according to a statement from the group.

Chemical Week (September 15, 2014) BASF, Cargill and Novozymes Advance with Biobased Acrylic Acid Manufacture

After demonstrating the production of 3-HP at pilot scale a year ago, BASF, Novozymes and Cargill said they have now successfully converted the product to glacial acrylic acid and superabsorbent polymers and have selected this process for further scale-up.

Environmental Leader (September 8, 2014) Chemical Producer's Sustainability Strategies on the Rise
Eighty-one percent of mainstream chemical producers say it's very or moderately important to be a front runner in sustainable chemicals, according to a survey by Genomatica and ICIS. In addition, respondents said they viewed BASF, DuPont, Dow, Bayer and Genomatica as the leaders in sustainable technology. The survey drew 958 responses worldwide, with 53 percent of respondents at the level of vice president, general manager or above. When asked whether their company has a sustainability strategy/policy in place, 69 percent responded that they either have one in place or are currently developing one, and 67 percent described their company's top business priority in sustainability as either promoting or marketing sustainable products, taking an active lead on sustainability issues, or engaging customers on a business level.

The Des Moines Register (September 3, 2014) Emmetsburg Cellulosic Ethanol Plant: Fuel for the Future

A new \$275 million ethanol plant that uses corn cobs, leaves and husks to produce ethanol provides the foundation for a "new energy future" that reduces America's reliance on foreign oil, is more environmentally friendly and can help revitalize rural America, officials said Wednesday at the opening of Poet-DSM's Project Liberty. Poet founder Jeff Broin said the cellulosic plant could help transform the nation's energy supply — and its economy. Poet-DSM needed more than a decade to develop the technology used in the plant and more than \$120 million in state and federal grants. Poet, a South Dakota ethanol producer, and Royal DSM of the Netherlands partnered on the project. Also reported on in Scientific American, 9/3 and Biobased Digest, 9/3.

Bloomberg (September 1, 2014) Inedible Crop Biofuels Need Government Mandate, Novozymes

Efforts to spur use of clean fuel from inedible crops will fail unless governments force oil companies to offer it to consumers, according to Novozyme A/S, developer of technology to reduce the cost of biofuel output. "The issue is access to consumers and you see that clearly in the U.S.," Chief Executive Officer Peder Holk Nielsen said. "Oil companies don't promote this technology and they are the only interface to the consumers as they control gas stations."... "Advanced biofuels will be a very, very hard sell outside those countries where the energy sector is state-controlled unless politicians get on top of it and mandate the use," Nielsen said. "That doesn't mean subsidies, it just means that if they don't mandate the use of it, the oil companies will always conclude that they would rather sell gasoline."

Industry Events Calendar

ABLCNext - November 9-11, 2014-San Francisco, California

ABLCNext focuses on rapidly emerging technologies and feedstocks, including novel molecules, new crops,

[byproducts and residues. advancedbiofuelsummit.com](#)

Echochem- November 11-13, Basel Switzerland

The Ecochem Exhibition and Conference will provide an independent, scientifically-supported platform to accelerate innovation, research, commercialisation and market uptake in the design, production and use of efficient, effective, safe and more environmentally benign chemical products and processes. echochemex.com

BIO Pacific Rim Summit on Industrial Biotechnology and Bioenergy- December 7-9, 2014- San Diego, California

The 9th Annual BIO Pacific Rim Summit is the original conference dedicated solely to the growth of the industrial biotechnology and bioenergy sectors in North America and the Asia-Pacific region. **Registration and housing are now open- reserve your room at the headquarters hotel now!** bio.org/pacrim

ARPA-E Energy Innovation Summit- February 9-11, 2015- Washington, DC

The ARPA-E Energy Innovation Summit brings together the very best minds in business, academia, and government to advance cutting-edge technologies that could fundamentally change the way we generate, use and store energy. arpa-e-summit.com

BIO World Congress on Industrial Biotechnology- July 19-22, 2015- Montreal, Canada

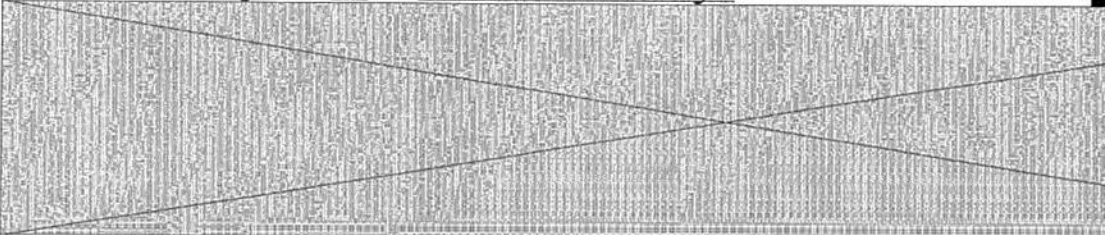
The BIO World Congress on Industrial Biotechnology is the world's largest industrial biotechnology event for business leaders, investors, and policy makers in biofuels, biobased products, and renewable chemicals. Mark your calendar- the call for papers for 2015 will open in October 2014. bio.org/worldcongress

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You were added to the system January 30, 2009. For more information [click here](#).
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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Larry Schafer
Sent: Tue 9/30/2014 8:43:38 PM
Subject: FW: Petition for Reconsideration/Clarification - RFS Quality Assurance Program
NBB Petition for Reconsideration - QAP.pdf

Paul,

Just FYI ...

Larry Schafer

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From: Larry Schafer [mailto:lschafer@biodiesel.org]
Sent: Tuesday, September 30, 2014 4:42 PM

To: Byron Bunker (Bunker.Byron@epamail.epa.gov); Manners.Mary@epamail.epa.gov
Subject: Petition for Reconsideration/Clarification - RFS Quality Assurance Program

Byron and Mary:

Hope you are well.

In the next couple of weeks, the NBB (Sandra Franco, Lindsay Fitzgerald and I) would like to come to Ann Arbor to meet with you to discuss the attached Petition for Reconsideration.

From a Calendar perspective in October, the week of October 6-10; 13-17; and 27 and 30 are generally available.

Generally, to allow us enough time to get in and out in one day we should be able to meet at any time between 11:00 am and 5:00 pm. Will probably need two hours.

Let us know if you can make some time to meet with us.

Thank you.

Larry Schafer

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From: Franco, Sandra [<mailto:S.Franco@bingham.com>]

Sent: Tuesday, September 16, 2014 7:24 PM

To: Larry Schafer; Lindsay Fitzgerald

Cc: Anne Steckel

Subject: FW: Petition for Reconsideration/Clarification - RFS Quality Assurance Program

FYI - Thanks

From: Franco, Sandra

Sent: Tuesday, September 16, 2014 7:21 PM

To: mccarthy.gina@epa.gov

Cc: 'Bunker.byron@Epa.gov'; 'Manners.mary@Epa.gov'; 'Williams.brenton.@Epa.gov'; 'williams.brent@epa.gov'; Anne Steckel

Subject: Petition for Reconsideration/Clarification - RFS Quality Assurance Program

On behalf of the National Biodiesel Board, please see the attached request for Reconsideration or Clarification of EPA's RFS Renewable Identification Number (RIN) Quality Assurance Program; Final Rule, 79 Fed. Reg. 42,078 (July 18, 2014).

Thank you,

Sandra Franco

Print Less —> Go Green

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September 16, 2014

Via Electronic and First Class Mail

The Honorable Gina McCarthy
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code: 1101A
Washington, DC 20460
McCarthy.gina@Epa.gov
Docket: EPA-HQ-OAR-2012-0621

Re: Request for Reconsideration or Clarification of EPA's "RFS Renewable Identification Number (RIN) Quality Assurance Program; Final Rule," 79 Fed. Reg. 42,078 (July 18, 2014)

Dear Administrator McCarthy:

The National Biodiesel Board ("NBB") respectfully submits this Petition for Reconsideration or Clarification of the Final Rule entitled "RFS Renewable Identification Number (RIN) Quality Assurance Program; Final Rule," 79 Fed. Reg. 42,078 (July 18, 2014) (the "QAP Rule"). The QAP Rule establishes a voluntary quality assurance program for the purpose of verifying RINs under the Renewable Fuel Standard ("RFS2") program. It also includes various regulatory provisions related to the treatment of RINs based on activities occurring downstream of a renewable fuel producer. While NBB believes EPA made many positive revisions from the proposed rule, NBB remains concerned that there continues to be unanswered questions or unclear provisions in the QAP Rule requiring reconsideration or, at a minimum, clarification.

NBB is the national trade association representing the United States biodiesel industry. Its membership is comprised of biodiesel producers; state, national and international feedstock and feedstock processor organizations; fuel marketers and distributors; and technology providers. Biodiesel is a key part of the RFS2 program, making up the majority of the advanced biofuel category over the first several years of the program. While NBB has long worked to ensure the integrity of the RFS2 and RIN system, the biodiesel industry took prompt action to work toward

practical solutions to the RIN fraud issues the QAP Rule seeks to address.¹ NBB participated throughout the rulemaking process, including participating in stakeholder meetings on the QAP. In addition, several of NBB's members have engaged pre-approved auditors to verify RINs during the interim transition period and will likely be doing the same under the final rule.

NBB requests reconsideration or clarification on several aspects of the final QAP Rule.

- ☐ The final QAP Rule included new provisions to address the export of renewable fuel and retirement of RINs associated with those exports. NBB is concerned with several aspects of the new regulatory language, and believes reconsideration or clarification is warranted to better ensure compliance and transparency.
- ☐ While NBB understands that producers are not required to follow the biodiesel they designate for use as transportation fuel, heating oil or jet fuel and agrees that properly generated RINs should remain valid regardless of the actual downstream use, clarification is warranted as to the retirement of RINs by persons downstream of the producer if the fuel is subsequently used for another purpose.
- ☐ Given the recent increase in imports and the concerns raised by the public as to whether the requirements of the RFS2 regulations are being met (and enforced) overseas, EPA should reconsider and clarify the application of the quality assurance program to foreign production and imports of renewable fuel. EPA also should clarify and correct the provisions as they relate to foreign auditors.
- ☐ The final QAP Rule also does not appear to include provisions with respect to the independence of the auditor conducting the QAPs that EPA recognized as being necessary to ensure the effectiveness of the program. Reconsideration is warranted to clarify the conflicts of interest that must be avoided and to strengthen the requirements to ensure compliance and their enforceability.
- ☐ NBB believes further clarification is necessary with respect to the timing of updates to QAPs and an auditor's registration. Also, while EPA agreed that there should be no gaps in coverage while EPA reviews a company's registration renewal, it is not clear how the requirement to annually submit a QAP fits with these other provisions.
- ☐ Finally, NBB remains concerned with the new administrative process for addressing potentially invalid RINs. It continues to believe that EPA has not adequately addressed or allowed for corrective actions that may not require retirement of any RINs. A RIN should remain valid if the renewable fuel was produced from renewable biomass, meets one of the approved pathways or petitions, and was sold into commerce for use as or in transportation fuel, heating oil or jet fuel.

¹ In 2012, NBB established a RIN Integrity Task Force, which included representatives of obligated parties, to create a private sector solution to eliminate RIN fraud. The task force was the first to outline what the industry agreed were appropriate elements of a RIN audit. Thus, the industry acted promptly to provide additional assurances to obligated parties and promote RIN integrity.

I. BACKGROUND

A. History of the QAP Final Rule

The RFS2 program under Section 211(o) of the Clean Air Act, 42 U.S.C. § 7545(o), requires certain volumes of renewable fuel be “sold or introduced into commerce in the United States (except in noncontiguous States or territories)”² each year. To implement the RFS2 program EPA established the RIN system. The RIN was intended to be the “credit” for purposes of the required trading program and to serve as the measurement of compliance. 72 Fed. Reg. 23,900, 23,909 (May 1, 2007). RINs are generated by the renewable fuel producer to represent production of renewable fuel. *Id.*; see also 40 C.F.R. § 80.1426(a). RINs are assigned to volumes of renewable fuel, and may be separated under certain circumstances to be traded or used for compliance. 40 C.F.R. §§ 80.1426, 80.1429.

Under EPA’s regulations, a RIN is “invalid” under certain circumstances. 40 C.F.R. § 80.1431(a). Invalid RINs must generally be retired or replaced if used for compliance. 40 C.F.R. § 80.1431(b). “These invalid RIN provisions apply regardless of the good faith belief of a party that the RINs are valid. These enforcement provisions are necessary to ensure the RFS program goals are not compromised by illegal conduct in the creation and transfer of RINs.” 72 Fed. Reg. at 23,950; see also 75 Fed. Reg. 14,670, 14,733 (Mar. 26, 2010); EPA, RFS2 Summary and Analysis of Comments at 4-43 (Feb. 2010). Nonetheless, in various cases, EPA does allow for remedial actions that allow “invalid” RINs to remain in the marketplace (or used for compliance). See 40 C.F.R. § 80.1431(c); see also EPA, *RFS2 Remedial Action Guidance*, <http://www.epa.gov/otaq/fuels/renewablefuels/compliancehelp/rfs2remedialactions.htm> (last updated June 19, 2014).

From the start of the program, EPA indicated that the RIN system was one of “buyer beware,” making it incumbent on obligated parties to undertake some due diligence to ensure the RINs purchased were valid. In late 2011 and 2012, EPA announced three enforcement actions related to invalid RINs generated mostly in 2009 and 2010, with some in 2011. Although EPA provided some enforcement relief with respect to the purchasers of these invalid RINs, EPA did take enforcement actions against obligated parties that had relied on these invalid RINs. EPA further recognized that there was a “widespread failure of obligated parties to conduct adequate oversight.” 78 Fed. Reg. 12,158, 12,163 (Feb. 21, 2013).

These cases of fraud led to private party solutions and increased auditing by obligated parties. The quality assurance program proposed by EPA was intended to provide more guidance as to what constitutes appropriate due diligence, so that the industry can understand what may be required rather than face many and varied requests for information and audits. It also sought to provide purchasers of invalid RINs an affirmative defense to limit their liability in light of fraudulent actions by others.

During the development of the proposed rule, EPA also recognized that there was some confusion in the marketplace as to whether certain downstream uses could invalidate an otherwise properly generated RIN, and proposed or requested comment on revisions to the RFS2

² Hawaii has opted into the RFS2 program.

program to address downstream uses. In the proposal, EPA requested comments on various topics, but did not provide proposed regulatory language. *See, e.g.*, 78 Fed. Reg. at 12,165 (seeking comment on participation in QAP program by foreign producers); *id.* at 12,193 (seeking comments on options for addressing export of renewable fuel).

NBB submitted substantial comments on the proposal for the QAP Rule, including comments to ensure the integrity of the RFS2 program and RIN system and to ensure a workable and practical program for producers. EPA-HQ-OAR-2012-0621-0069 (referred to herein as “NBB Comments”). In the final QAP Rule, EPA finalized one QAP program for the verification of “Q-RINs,” which included new provisions intended to strengthen the integrity of the program, such as those related to the independence of the auditor implementing a QAP. EPA also sought to finalize new regulatory provisions to ensure that RINs are retired for all renewable fuel that is exported “and to address RINs that become invalid downstream of a renewable fuel producer.” 79 Fed. Reg. at 42,078.

B. Statutory Provisions Governing Reconsideration

Under Section 307(d)(7)(B) of the Clean Air Act, the Administrator is required to convene a proceeding to reconsider a final rule upon a demonstration that it was impracticable to raise a particular objection to the rule during the period for public comment (but within the time specified for judicial review), if the objection is of central relevance to the outcome of the rule. 42 U.S.C. § 7607(d)(7)(B). Reconsideration petitions may also be an appropriate forum to raise procedural violations. *Id.* § 7607(d)(9); *see also White Stallion Energy Center, LLC v. EPA*, 748 F.3d 1222, 1252 n.5 (D.C. Cir. 2014), *petitions for cert. filed*, 83 U.S.L.W. 3089 (U.S. July 14, 2014) (Nos. 14-46, 14-47, 14-49).

The Clean Air Act requires notice to give the public a meaningful opportunity to comment on the terms and basis of EPA’s regulations. 42 U.S.C. § 7607(d)(3), (4), (5); *see also* 5 U.S.C. § 553(b)(3), incorporated by reference in 42 U.S.C. § 7607(d)(3).

Notice requirements are designed (1) to ensure that agency regulations are tested via exposure to diverse public comment, (2) to ensure fairness to affected parties, and (3) to give affected parties an opportunity to develop evidence in the record to support their objections to the rule and thereby enhance the quality of judicial review.

Env’tl. Integrity Project v. EPA, 425 F.3d 992, 996 (D.C. Cir. 2005) (quoting *Int’l Union, United Mine Workers of Am. v. Mine Safety & Health Admin.*, 407 F.3d 1250, 1259 (D.C. Cir. 2005)); *see also Donner Hanna Coke Corp. v. Costle*, 464 F. Supp. 1295, 1305 (W.D.N.Y. 1979) (“The significance of rulemaking cannot be underemphasized. It gives parties affected by a decision an opportunity to participate in the decision-making process and forces EPA to articulate the bases for its decisions.”) (citation omitted). That EPA may be responding to comments in the final rule may not be sufficient to satisfy the notice and comment requirements of the Clean Air Act. *See McLouth Steel Products Corp. v. Thomas*, 838 F.2d 1317, 1323 (D.C. Cir. 1988) (citing *AFL-CIO v. Donovan*, 757 F.2d 330, 339-40 (D.C. Cir. 1985) and *Small Refiner Lead Phase-Down Task Force v. EPA*, 705 F.2d 506, 549-50 (D.C. Cir. 1983)).

In addition, the Clean Air Act requires EPA to explain any major changes in the promulgated rule from the proposed rule, and to respond to significant comments, criticisms and new data submitted during the comment period. 42 U.S.C. § 7607(d)(6).

The final QAP Rule included many revisions in response to comments it received, but EPA did not address several significant comments and, even when EPA indicated it was responding to comments, the revisions did not always fully address the changes EPA agreed were necessary or the public's concerns. In addition, the final QAP Rule included new rationalizations and new provisions that the public should have a meaningful opportunity to comment on or that require clarification. Although NBB believes several of these issues may simply be inadvertent errors requiring technical corrections, NBB has submitted this petition for reconsideration and requests that EPA make the appropriate revisions or clarifications.

II. BASIS FOR RECONSIDERATION OF THE FINAL RULE

A. Reconsideration or Clarification is Necessary with Respect to the New Provisions on Export Renewable Volume Obligations.

Under the current RFS2 regulations, properly generated RINs are not rendered invalid if the renewable fuel is exported. Rather, the export of the renewable fuel triggers an obligation to retire RINs. 40 C.F.R. § 80.1430. Compliance with this renewable volume obligation for exports ("ERVO") was done on an annual basis. 79 Fed. Reg. at 42,103. Given some confusion in the industry as to what exports trigger an ERVO, EPA proposed to make certain clarifications to 40 C.F.R. § 80.1430(a) to make clearer that an ERVO is triggered with any export of renewable fuel. 78 Fed. Reg. at 12,193. EPA, however, also sought comment on whether additional changes to the ERVO were necessary, including whether, in the case of exports, RINs should be retired on a shorter time frame than annually. *Id.* Although EPA noted that it "could require the immediate retirement of RINs, at the time of export or within a limited window such as 30 days after export," it did not provide proposed regulatory language. *Id.* EPA also asked whether the deficit carryover provision should be eliminated for exports. *Id.*

In the final QAP Rule, EPA agreed with public comments, including those submitted by NBB, that a shorter time frame for the retirement of RINs related to exports would have advantages in providing greater certainty in the RIN market. 79 Fed. Reg. at 42,104. Although NBB supported this change in its comments, it has concerns with the final regulatory language that it believes EPA should reconsider or clarify through technical corrections. Moreover, EPA did not respond to comments NBB raised with respect to additional revisions necessary to provide greater transparency and to ensure compliance with these requirements.

1. Reconsideration is necessary to ensure compliance with the new ERVO provisions.

While EPA claimed it was moving to a 30-day retirement ERVO, which NBB supports, the regulatory language appears to only require a demonstration of compliance with these requirements on an annual basis and in the same manner as is currently the case.³ While NBB's

³ The final regulatory language states that the exporter "must demonstrate compliance with its ERVOs pursuant to § 80.1427(c)." 79 Fed. Reg. at 42,115 (new 40 C.F.R. § 80.1430(f)). New Section 80.1427(c), in turn,

comments referenced retaining an annual compliance report, such compliance report would have been accompanied by additional revisions to the recordkeeping and reporting requirements and greater transparency. NBB Comments at 54-55. The provisions in the final QAP Rule do not adequately address these issues.

NBB's comments requested additional transparency with respect to obligated parties and exporters to ensure compliance and provide more information to the marketplace. NBB also raised concerns regarding the creation of "shell" corporations to avoid the RIN retirement obligations. NBB Comments at 53. EPA responded that the shorter time frame for retiring RINs will "discourage 'shell corporations'" from being formed to export fuel and then fold before retiring RINs. 79 Fed. Reg. at 42,103. But relying on the annual compliance reports under 40 C.F.R. § 80.1451(a)(1) alone is not sufficient. In particular, the regulations do not provide sufficient transparency to give the market the certainty that was the impetus for the change in the deadline for retirement. For example, 40 C.F.R. § 80.1451(a)(1) includes no requirements to report the information we believe is necessary to determine whether the exporter met the requirements of 40 C.F.R. § 80.1430(f), such as information regarding the dates of export and the amounts of each export. Since it is an annual report, it is not clear how ERVOs are to be reported, per batch or combined for the year as a whole. EPA should reconsider these provisions or provide clarification as to how it anticipates ensuring compliance with the new deadlines for retiring RINs based on export of renewable fuels.

In addition, the final QAP Rule does not address the concerns NBB raised that more transparency is needed regarding exports and the RINs being retired. While EPA provides some data on RIN retirements, there is no information provided on RINs retired for export. *See* EPA, 2014 RFS2 Data: RIN Retirements, <http://www.epa.gov/otaq/fuels/rfsdata/2014emts.htm>. There currently is no separate code in the EMTS for retirement based on export, although EPA recently announced a revised version of the EMTS to be released in October. NBB encourages EPA to make the proper changes to the EMTS to ensure all the information necessary to ensure compliance is required. NBB further encourages EPA to include a table on its EMTS data webpage showing the exports that have been reported and the RINs that have been retired in response. *See* NBB Comments at 55.

2. Reconsideration is warranted to address new regulatory language not made available to the public at the proposal.

NBB supported revising the ERVOs because treating ERVOs the same as the RVOs of obligated parties is inconsistent with the statute. *See* NBB Comments at 54. A shorter time period to retire the RINs provides more certainty as to the amount of RINs available, and better ensures that the volume mandates are being met. Part and parcel of a shorter time frame is that the retired RINs are those generated with and assigned to the fuel or generated contemporaneously with the export.⁴ The final QAP Rule, however, allows up to 20% of the ERVO to be "fulfilled using RINs generated in the year prior to the year in which the RVO was

requires that exporters demonstrate "pursuant to § 80.1451(a)(1)" that it retired RINs in compliance with Section 80.1430(f). *Id.* (new 40 C.F.R. § 80.1427(c)). Section 80.1451(a)(1), however, only requires "annual compliance reports." 40 C.F.R. § 80.1451(a)(1).

⁴ NBB supported 30 days rather than an immediate retirement to give parties a reasonable time period for commercial transactions.

incurred.” 79 Fed. Reg. at 42,115 (new 40 C.F.R. § 80.1427(c)(3)). This language was not noticed, and EPA made no mention of retaining the ability to use prior year RINs if it was to move to a shorter time period for the retirement of RINs for exports in the proposed rule. See *MCI Telecomms. Corp. v. FCC*, 57 F.3d 1136, 1142 (D.C. Cir. 1995) (“More to the point, however, this court has made it clear that an agency may not turn the provision of notice into a bureaucratic game of hide and seek.”) (citations omitted). Further, in the final QAP Rule, EPA provides no explanation for inclusion of this provision. Given the significant differences in the provisions and EPA’s new assessment, it was incumbent on EPA to examine the basis for having this provision with respect to exports and explain that to the public. See *Ne. Md. Waste Disposal Auth. v. EPA*, 358 F.3d 936, 948 (D.C. Cir. 2004) (“[A]s we held in *Appalachian Power Co. v. EPA*, [135 F.3d 791, 818 (D.C. Cir. 1998),] the EPA at all times ‘retains a duty to examine key assumptions as part of its affirmative burden of promulgating and explaining a nonarbitrary, non-capricious rule,’ and therefore must justify its basic ‘assumption[s] even if no one objects ... during the comment period.’”); *Small Refiner Lead Phase-Down Task Force v. EPA*, 705 F.2d 506, 521 (D.C. Cir. 1983) (finding EPA cannot “ignore the procedural requirements of §307(d),” even if the agency “gives a decent reason for doing so”).

Allowing prior year RINs to be used to meet ERVOs undermines the purpose of the 30-day period for retirement, which is to address uncertainty as to the size of the export market and RIN availability. Indeed, EPA recognized that a shorter time frame would “reduce incentives for exporters to profit from selling RINs received with renewable fuel to obligated parties at a time of high RIN prices and then purchasing and retiring RINs to meet their RVO when prices drop.” 79 Fed. Reg. at 42,104. EPA also recognized that the ERVO is intended to ensure RINs are retired so the RINs generated for fuel that is to be exported “do not artificially inflate the RIN market and misrepresent the amount of renewable fuel produced for domestic use.” *Id.* at 42,102. If the purpose of the shorter time frame is to provide greater certainty in the RIN market and to ensure domestic use to meet the annual volume mandates, it makes no sense to also allow exporters to use prior-year RINs to meet the ERVOs. While EPA may claim that the 20% provision currently applies, the public has consistently raised concerns that allowing prior year RINs to be used to establish compliance with the volume mandates was improper under the statute. Moreover, the provision was intended to provide obligated parties flexibility to address potential shortages of RINs. Here the ERVO is intended to remove RINs out of the system that do not represent renewable fuels that are being used domestically. It was up to EPA to provide notice to the public and explain why the provision was still relevant, not to the public to anticipate its retention and argue against it.

EPA also included a new provision that exempts certain exports of renewable fuel for which no RINs were generated: “No provision of this section applies to renewable fuel purchased directly from the renewable fuel producer and for which the exporter can demonstrate that no RINs were generated through the recordkeeping requirements of § 80.1454(a)(6).” 79 Fed. Reg. at 42,115 (new 40 C.F.R. § 80.1430(a)(1)). The recordkeeping requirement includes an affidavit signed by the producer of the exported renewable fuel affirming that no RINs were generated for that volume of renewable fuel. *Id.* at 42,118 (new 40 C.F.R. § 80.1454(a)(6)(i)). NBB submitted comments that, if EPA were to provide for such an exemption, additional requirements were necessary so that EPA can better track fuel production and RIN generation. NBB Comments at 53. EPA did not respond to these comments and merely requiring the exporter to retain an affidavit from the producer is not sufficient.

3. An additional technical amendment to the provisions on ERVOs may be warranted.

NBB appreciates EPA's efforts to clarify that the export of any amount of renewable fuel under the program triggers an ERVO, as it explained in the proposal.⁵ However, in the final QAP Rule, EPA used a different formulation than in the proposal, applying the ERVO to "[a]ny exporter of renewable fuel, whether in its neat form or blended." 79 Fed. Reg. at 42,115 (new 40 C.F.R. § 80.1430(a)(1)). This is similar to the formulation that caused confusion in the first instance. EPA does not explain why it changed from the proposed rule. NBB suggests that EPA retain the reference to "any amount" of renewable fuel, whether in its neat form or blended.

B. EPA Must Clarify its Intention with Respect to the Treatment of RINs When Renewable Fuel is Subsequently Redesignated for a Non-Qualifying Fuel Use.

In the proposed rule, EPA sought to address concerns that non-qualifying downstream uses may invalidate a properly generated RIN. 78 Fed. Reg. at 12,193. NBB supported clarifying that properly generated RINs remain valid regardless of actions occurring downstream from the producer.

Section 80.1429(f) of the existing regulations provides that any person who uses or designates a renewable fuel for an application other than transportation fuel, heating oil or jet fuel (i.e., a non-qualifying fuel use) must retire any RINs received with that renewable fuel.⁶ 40 C.F.R. § 80.1429(f). EPA proposed to tighten the requirements for RIN retirement for any party that redesignates a renewable RIN-generating fuel for a non-qualifying fuel use, and to relieve end users of such an obligation. 78 Fed. Reg. at 12,195. EPA then proposed to remove and reserve paragraph 80.1429(f) of the regulations and add a new Section 80.1433 to require parties that designate fuel for which RINs were generated for a non-qualifying fuel use to retire an appropriate number and type of RINs. *Id.*

However, the final QAP Rule appears to not include any provisions to require the retirement of RINs when the fuel is redesignated for a non-qualifying use. NBB believes EPA intended to and should retain some requirement to retire RINs for renewable fuel used for a non-qualifying purpose. But, the final regulatory language includes no provisions for such retirement.

EPA's intent is hard to discern from the preamble. First EPA states:

Having added the requirements for 'intended use' PTD language to accompany all volumes of renewable fuel for which RINs were generated and new requirements for tracking and recordkeeping of

⁵ The proposal would have provided that "[a]ny party that owns any amount of renewable fuel, whether in its neat form or blended, that is exported ..." incurs an ERVO. 78 Fed. Reg. at 12,208 (proposed 40 C.F.R. § 80.1430(a)).

⁶ "Designation" of fuels for particular uses may implicate other provisions regulating fuels (e.g., ULSD regulations). EPA should clarify whether and how the designation of fuel for purposes of the RFS2 program coincides with designations under other fuel programs.

actual end use for fuels not traditionally used for a qualifying use, we feel that the program goal of ensuring appropriate end use is already addressed and managed through the regulations. *We are therefore not finalizing the proposed § 80.1433 and conforming prohibited act provision for sellers and transferors of RIN-generating renewable fuel.*

79 Fed. Reg. at 42,106 (emphasis added). Later on that same page, however, EPA states that it “proposed and [is] finalizing new requirements for any party that redesignates a renewable RIN-generating fuel for a non-qualifying fuel use”:

To accomplish this, we are removing and reserving § 80.1429(f) of the regulations and adding a new § 80.1433 to require parties that designate fuel for which RINs were generated for a non-qualifying fuel use, i.e. for something other than transportation fuel, heating oil, or jet fuel, to retire an appropriate number and type of RINs. We are also adding a new section 80.1460(g) which prohibits a person from designating a qualifying renewable fuel for which RINs were generated for a non-qualifying fuel use, unless the requirements of § 80.1433 have been met, i.e. an appropriate number and type of RINs were retired when the fuel was redesignated. These changes will relieve end users of the obligation to retire RINs.

Id. The regulatory language does remove 40 C.F.R. § 80.1429(f) and includes a reference to 40 C.F.R. § 80.1433 in the new provisions under 40 C.F.R. § 80.1453(a)(12), though no such provision currently exists. Thus, it is not clear from the regulatory language or the preamble what EPA intended to finalize. In short, EPA must reconsider whether the regulatory language effectuates the requirements as EPA intended. At a minimum, EPA should provide clarification as to any requirements for retirement of RINs based on downstream activities and its rationale for any changes from the proposal.

C. EPA Should Reconsider or Further Clarify Certain QAP Provisions.

1. EPA should reconsider the provisions of the QAP as they relate to foreign production and imports of renewable fuels.

In the proposed rule, EPA stated that the QAP being proposed “would also apply to RINs generated for foreign-produced renewable fuel.” 78 Fed. Reg. at 12,165. EPA stated that, to be verified, the associated foreign renewable fuel production facility must be audited under an EPA-approved QAP. *Id.* EPA asked for comment on any issues that could affect the integrity of the proposed program. *Id.* EPA also sought comment on whether additional requirements for registration of foreign third-party auditors were necessary. *Id.* at 12,189. Further, EPA asked for “comment on possible additional program elements that may only be applicable to foreign producers.” *Id.* at 12,191. The public did provide comments on these issues. While EPA recognized that a QAP for foreign production of biofuels requires additional elements, the final QAP Rule does not incorporate provisions necessary to ensure these requirements are met.

Moreover, EPA's response to public comments was inadequate, as illustrated by new information since the close of the comment period. As such, reconsideration is warranted to clarify the required elements of a QAP for foreign producers and importers.

a. The final QAP Rule does not clearly identify necessary elements of a QAP for foreign producers and importers.

First, the preamble to the final QAP Rule states that RINs for imported renewable fuel will not be considered verified unless both the foreign production facility and the importer are audited under the same EPA-approved QAP. 79 Fed. Reg. at 42,091. NBB agrees. See NBB Comments at 22. However, this requirement does not appear to be reflected in the regulations. Even if EPA intends to only approve QAPs that provide as much (which is not clear from the regulations), the registration, recordkeeping or reporting requirements do not provide sufficient assurances that parties will comply with these requirements. Some examples follow.

- ☐ For registration, Section 80.1450(g) requires the auditor to submit names of "producer[s]" to be audited, an affidavit or electronic consent from each such producer reflecting their intent to be audited, and an affidavit stating the auditors independence from "producer[s]." ⁷
- ☐ For reporting, Section 80.1451(g) references reports for "each facility audited." Facility is defined under the RFS2 regulations as the production facility, not including the importer's facility. ⁸ 40 C.F.R. § 80.1401.
- ☐ For recordkeeping, Section 80.1454(m) references numerous documents, such as "[c]opies of communications sent to and received from renewable fuel producers or foreign renewable fuel producers, feedstock suppliers, purchasers of RINs, and obligated parties," but they do not reference documents that would be from or held by importers.

Similarly, the preamble notes that EPA is finalizing the proposed additional registration requirements for foreign third-party auditors. 79 Fed. Reg. at 42,097. EPA's proposal indicated it was including similar requirements it imposes on other foreign entities participating in the program, including submitting reports in English and providing translated documents in English upon demand from EPA inspectors or auditors; submitting themselves to administrative and judicial enforcement powers and provisions of the United States without limitation based on sovereign immunity; and posting a bond covering a portion of the gallon-RINs that a foreign RIN owner owns. 78 Fed. Reg. at 12,189. While NBB generally agreed with the proposal, ⁹ NBB's comments questioned whether EPA included proposed regulatory language. NBB Comments at 41. EPA did not respond to these comments, and these "additional requirements"

⁷ NBB also believes reconsideration is warranted with respect to the provisions on the independence of an auditor as further described below.

⁸ While EPA does require the importer facility ID, the lack of QAP elements with respect to the importer illustrates that the regulations are not clear as to requiring an audit of the importer as well as the foreign producer.

⁹ NBB believes the bond requirements currently in the regulations are insufficient.

still do not appear to be in the regulatory text. At a minimum,¹⁰ it is essential that foreign auditors submit themselves to administrative and judicial enforcement powers and provisions of the United States without limitation based on sovereign immunity. While NBB understands that EPA is still reviewing the bond requirements for foreign producers and foreign RIN owners,¹¹ EPA must also make sure there is some available recourse against foreign auditors. The importance of this issue warrants reconsideration.

Finally, while EPA recognizes that a QAP with respect to foreign production of biofuels will include additional elements, the final QAP Rule does not expressly outline those elements. In its comments, NBB specifically outlined its concerns whether the QAP provides sufficient assurances that the feedstocks used sufficiently qualify for the program. NBB Comments at 22. NBB's comments also referenced the additional regulations as they relate to foreign producers at 40 C.F.R. §§ 80.1465, 80.1466 and 80.1467. *Id.* In the preamble to the final QAP Rule, EPA appears to agree that the QAP for foreign production of renewable fuels will include numerous additional elements:

[A]n auditor verifying production for a foreign RIN generating producer will need to ensure that the recordkeeping and bond requirements under §§ 80.1466 and 80.1467 are being met. It will also include verifying any certificates of fuel transfer, as well as port of entry testing, none of which are required for domestic RIN generation. This is by no means an exhaustive list, but rather an example to show that there may be significant differences in the requirements to verify a RIN, based on the location of the producer and the type of RIN generation. *With these additional requirements*, we believe foreign-produced RINs verified through a QAP can be treated in the same manner as any RINs verified from domestically produced fuel.

79 Fed. Reg. at 42,091 (emphasis added). Again, what EPA has recognized to be necessary appears to only be memorialized as aspirational goals.

NBB fully supports EPA's decision to finalize only one QAP, but the elements of the final QAP still do not appear to account for the additional recordkeeping requirements required for foreign renewable fuel producers and foreign RIN owners noted above, including those under 40 C.F.R. §§ 80.1466 and 80.1467. While the QAP includes general "RIN generation-related components," the audit requirements appear to focus on the producer level. The preamble states only that the auditor must determine if there is any import or foreign biofuel producer documentation, but the regulatory provisions do not expressly address the additional requirements for RIN generation for imports, particularly those under 40 C.F.R. § 80.1466.¹²

¹⁰ EPA finalized general provisions requiring that any registration information, reports and records submitted to EPA include an English translation in a separate rulemaking. 79 Fed. Reg. 42,128, 42,154 (July 18, 2014). But, EPA provides no explanation in the final QAP Rule as to why it has not finalized the other "proposed" provisions.

¹¹ See 79 Fed. Reg. at 42,128.

¹² For example, the regulations provide that no foreign producer and importer may generate RINs for the same volume of renewable fuel and that a foreign producer of renewable fuel is prohibited from generating RINs in excess of the number for which the bond requirements of this section have been satisfied. 40 C.F.R. § 80.1466(j).

Indeed, EPA states that it “does not intend to place any additional burdens on foreign producers above what is required for domestic producers,”¹³ 79 Fed. Reg. at 42,091, but EPA cannot ignore the additional requirements already in the regulations. Similarly, the requirements for audits only references “a review of documents *generated by the renewable fuel producer.*” 79 Fed. Reg. at 42,122 (new 40 C.F.R. § 80.1472(a)(4)) (emphasis added). The requirement for on-site visits also only references “the renewable fuel production facility.” *Id.* (new 40 C.F.R. § 80.1472(b)(3)). This focus does not ensure that the regulations are being met on the importer side. EPA did not respond to comments on these issues. For all these reasons, EPA must reconsider the provisions in the QAP Rule as they relate to foreign production and importation of renewable fuels.

b. New information supports reconsidering the QAP provisions as they apply to foreign produced biofuels.

In its comments, NBB proposed that each gallon of imported renewable fuel be validated through the highest level QAP, where each gallon produced and each RIN are validated through a real time monitoring system. NBB Comments at 21-23. NBB also noted that additional requirements with respect to imported renewable fuel may be warranted, regardless of who generates the RIN. *Id.* New information supports the concerns NBB raised with respect to EPA’s ability to adequately oversee foreign entities (except those in Canada¹⁴).

NBB has long been concerned with whether and how EPA is enforcing the renewable biomass requirements for feedstocks used outside of the United States, such as palm oil or palm oil derivatives and soybean oil from Argentina and Brazil used to produce biodiesel. These concerns stem from the difficulties in enforcing against foreign entities, which EPA has admitted. These countries also do not have the same history of land use as the United States and Canada, where agricultural lands have declined or remained steady for years.¹⁵ New information provides further support that EPA should reconsider these provisions.

Based on data made available after the close of the comment period, the amount of biodiesel and renewable diesel being imported has steadily increased. In 2012, around 145 million biomass-based diesel RINs were generated by importers and foreign producers. EPA, 2012 RFS2 Data: RIN Generation by Producer Type, <http://www.epa.gov/otaq/fuels/rfsdata/2012emts.htm> (data current as of August 7, 2014). In 2013, over 550 million biomass-based diesel RINs were generated by importers and foreign producers. EPA, 2013 RFS2 Data: RIN Generation by Producer Type, <http://www.epa.gov/otaq/fuels/rfsdata/2013emts.htm> (data current as of August 7, 2014). Through July 2014, over 300 million gallons of biomass-based diesel RINs already have been generated by importers and foreign producers. EPA, 2014 RFS2 Data: RIN Generation by

¹³ NBB also notes that the QAP is *voluntary*, but the entire purpose of the QAP is to provide assurances that the RINs were generated consistent with the regulations.

¹⁴ EPA has approved an aggregate compliance approach for Canada, and transport of goods across the border does not raise the same concerns as when they are shipped in from overseas.

¹⁵ Recent reports illustrate that land use protections in other countries (outside the United States and Canada) are insufficient. See, e.g., Marcelo Teixeira, *Brazil Confirms Amazon Deforestation Sped Up in 2013*, Scientific American (Sept. 10, 2014), <http://www.scientificamerican.com/article/brazil-confirms-amazon-deforestation-sped-up-in-2013/>.

Producer Type, <http://www.epa.gov/otaq/fuels/rfsdata/2014cmts.htm> (data current as of August 7, 2014). Foreign generation of D6 RINs, which was zero in 2012, has also substantially increased.¹⁶

NBB is also concerned with the lack of transparency of EPA's enforcement (if any) of the renewable biomass provisions for imported fuels. NBB raised concerns to EPA in December of 2013 as to EPA's ongoing review of a proposal from Argentina to use the alternative tracking method for establishing the renewable biomass requirements, including the lack of public notice and comment. NBB has also recently heard that imports from Argentina are relying on very limited documentation to establish compliance with the map and track requirements of the RFS2 regulations. This apparent lack of enforcement further calls into question whether a QAP should be mandatory for imported renewable fuels or additional requirements should be considered by EPA with respect to foreign production of renewable fuels and their importation.

Our major concern is that feedstock from the imported volumes is not being properly monitored by the EPA. Under the RFS2, in order to qualify for the program and generate RINs, biofuels are required to meet a number of feedstock requirements, including but not limited to, specific mapping and tracking of feedstock to ensure that it meets the sustainability requirements of the program. We are not aware of EPA reviewing, verifying or approving any documentation that meets regulatory requirements to support feedstocks being used to generate RINs on imported gallons.

c. The concerns raised by NBB warrant further investigation by EPA and further rulemaking.

In its comments, NBB outlined additional provisions that it believes would strengthen EPA's ability to enforce against foreign production of renewable fuels. These included imposing additional requirements to review documentation from the foreign producer, the exporter in the foreign country (if different), and the importer itself once the fuel reaches the United States; and strengthening the RIN replacement provisions for invalid RINs associated with imported fuels by having the domestic purchaser of the imported fuel be in line to replace any invalid RIN.¹⁷ EPA did not respond to these comments. As noted above, new information calls into question whether the existing regulations are sufficient to protect against fraud overseas. EPA should reconsider these provisions, and, if necessary, initiate a new rulemaking proceeding.

2. EPA should reconsider the provisions on the independence of third-party auditors to ensure they effectuate the intent of EPA as outlined in the preamble and sufficiently address the concerns raised by public comments.

EPA has recognized that the "first, and perhaps the most important, requirement for auditors is that they remain independent of renewable fuel producers." 78 Fed. Reg. at 12,187.

¹⁶ Much of this RIN generation is associated with biodiesel and renewable diesel from grandfathered facilities. Such facilities must still use feedstock that meets the renewable biomass definition and must comply with the registration, reporting and recordkeeping requirements.

¹⁷ NBB also suggested increasing the bond requirements. As noted above, NBB understands EPA is still reviewing proposed revisions to the bond, and, thus, does not address these here.

The public “overwhelmingly agreed that ensuring the independence of third-party auditors is paramount to the successful implementation of effective QAPs.” 79 Fed. Reg. at 42,092. In the preamble to the final QAP Rule, EPA agreed that the conflict of interest provisions in the proposal were insufficient and that additional provisions to ensure objective audits were necessary. But, these changes do not appear to be reflected in the regulatory language. Moreover, the final QAP Rule does not include sufficient provisions to enforce these requirements. Further, EPA did not adequately respond to comments that it must protect against conflict of interests with respect to *all* RIN owners, not just producers (as in the proposed rule) and obligated parties (as added in the final rule). Finally, the public could not comment on the new, broad provision the final QAP Rule includes to protect against the “appearance” of conflict, which may cause confusion in the industry. Thus, reconsideration is warranted to ensure these provisions are sufficient to protect against conflicts of interest.

First, although EPA agreed that there was a potential for conflicts of interest to arise with obligated parties, 79 Fed. Reg. at 42,092-42,093, the final QAP Rule includes only one, limited provision to address these conflicts. The preamble states that the final QAP Rule requires “QAP auditors be independent from obligated parties *the same way they are required to be independent from the RIN generator.*” *Id.* at 42,093 (emphasis added). But, the only restriction with respect to obligated parties in the final QAP Rule is that they cannot own or operate the third-party auditor. 79 Fed. Reg. at 42,122 (new 40 C.F.R. § 80.1471(b)(2)). Thus, the conflict of interest provisions with respect to obligated parties are not, as the preamble states they should be, parallel to those with respect to renewable fuel producers. As the public commented, third-party auditors should be independent from obligated parties, as obligated parties obtain benefits from the RINs being verified. Third-party auditors also may verify the obligated parties’ compliance with the RFS, providing further incentives to verify RINs that may not be valid. NBB believes this is an oversight and requires technical corrections to ensure that the independent third-party auditor be “free from any interest or appearance of any interest” with obligated parties. If not an oversight, EPA provides no explanation as to why the regulations are so limited, and, thus, reconsideration may be necessary in order to correct this procedural infirmity. Such infirmity is key to ensuring an effective QAP and, thus, is central to the final QAP Rule.

Second, although EPA expanded the conflict of interest provisions in the final QAP Rule, it did not include provisions to ensure compliance. At registration, the proposed rule required an affidavit stating “that an independent third-party auditor is independent . . . of any renewable fuel producer or foreign renewable fuel producer.” 78 Fed. Reg. at 12,209 (proposed 40 C.F.R. § 80.1450(g)(7)). Although EPA applied the conflict of interest provisions beyond producers in the final rule, the regulations do not require an affidavit that reflects this broader scope, still only requiring an affidavit stating the auditor’s (and now its contractors and subcontractors) independence from “any renewable fuel producer or foreign renewable fuel producer.” 79 Fed. Reg. at 42,116 (40 C.F.R. § 80.1450(g)(7)). This affidavit also does not require any evidence that the auditor is or is not providing additional services under the RFS2 program, which the final QAP Rule also purports to guard against. Again, this may have been an oversight by EPA, but EPA provides no explanation as to why it is only requiring an affidavit regarding the auditor’s independence from producers or how it intends to enforce the new conflict of interest provisions in the final QAP Rule.

In addition, public comments indicated that an affidavit from the auditor was not sufficient to ensure independence. *See, e.g.,* NBB Comments at 13. Comments suggested that EPA “expand the affidavit requirement to include any documentation to support statements in the affidavit and make clear that the affidavit must be under oath. Such an approach would allow the EPA to go under the covers of the affidavit statements to ensure that all potential conflicts of interests are disclosed.” 79 Fed. Reg. at 42,097. EPA responded that the affidavit requirement “is an important piece of registration and potentially valuable if we have to pursue actions arising from alleged conflicts of interest.” *Id.* But, EPA does not explain why the current provisions requiring a simple affidavit are sufficient to ensure compliance. Moreover, the final QAP Rule does not appear to consider whether other registration, recordkeeping or reporting provisions similarly should be expanded to other information needed for EPA to confirm compliance. In order to ensure the requirements have any teeth, they must be enforceable.

Third, EPA did not respond to comments that it should address potential conflicts of interest that may arise with respect to relationships between auditors and other RIN owners. *See* NBB Comments at 38-39. EPA has agreed that “by interpreting conflict of interest more broadly, we will raise the standard of independence in the QAP program to a higher level than that seen in other portions of the EPA regulations, especially considering the importance of maintaining an effective QAP.” 79 Fed. Reg. at 42,093. But, the final QAP Rule only addresses potential conflicts of interest with renewable fuel producers and obligated parties. Relationships with other RIN owners also could lead to a potential conflict of interest that “may inhibit an auditor’s ability to effectively implement a QAP.” 79 Fed. Reg. at 42,092. This is because such conflicts can create “an incentive to ignore potential issues because they have a financial interest in whether RINs are valid.” *Id.* “[A] third-party auditor could also be acting on behalf of a *RIN-owner*, which may be an incentive to validate RINs fraudulently to sell to other parties.” 78 Fed. Reg. at 12,187 (emphasis added). EPA also has recognized that auditors have access to confidential business information from RIN generators that can lead to speculation. 79 Fed. Reg. at 42,092. Nonetheless, EPA limited the expansion of the provisions to obligated parties, providing no explanation as to why it was not addressing these other potential and recognized conflicts.

Finally, in the final QAP Rule, EPA included a new restriction that the third-party auditor avoid the “appearance” of conflict. This provision is intended to address whether there should be additional restrictions on the types of services third-party auditors could provide under the RFS2 program. 79 Fed. Reg. at 42,093. While EPA sought comment generally on this issue, 78 Fed. Reg. at 12,187, 12,190, it did not propose to prohibit a broader (and somewhat ambiguous) “appearance” of conflict. NBB believes the regulation should be corrected to draw clear lines as to what services an auditor may or may not provide. Such services should also not necessarily be limited to those provided to producers. Reconsideration is warranted to give the public an opportunity to consider and meaningfully comment on what additional services to other parties under the RFS2 (such as attesting to compliance) also presents an “appearance” of conflict that are not addressed in the final QAP Rule.

3. Further clarification as to when updates to an auditor's registration are necessary versus updates to QAPs.

The final QAP Rule requires auditors to register with EPA and renew their registration on an annual basis. It also requires updates to the auditor's registration. 79 Fed. Reg. at 42,116 (new 40 C.F.R. § 80.1450(g)(9)). The provisions for updating an *auditor's* registration, however, refer to the *producer's* registration and the *producer's* facility. There are also references to the need to update a producer's QAP. But, the regulations already provide for "revisions of a QAP" when changes are made to a producer's facility with no reference to how these revisions interact with the required registration updates. *Id.* at 42,121 (new 40 C.F.R. § 80.1469(f)). This also raises questions as to timing, as it is unclear whether the QAP must be submitted with registration updates, annually or only when changes are made at a facility that is audited. Compare new 40 C.F.R. § 80.1450(g)(9) with new 40 C.F.R. § 80.1469(c), (f). NBB's comments noted the inconsistencies with these provisions, which were not addressed by EPA in the final QAP Rule. Moreover, while the final QAP Rule does provide that the auditor's registration renewal process is automatic unless it received a notice of deficiency, which avoids gaps in coverage, EPA did not make a similar clarification as to the annual approval of QAPs.

First, it is unclear why certain of the provisions regarding updating an auditor's registration information are tied to activities at a production facility. New Section 80.1450(g)(9) provides as follows:

- (9) Registration updates—(i) Any independent third-party auditor who makes *changes to its quality assurance plan(s)* that will allow it to audit new renewable fuel production facilities, as defined in § 80.1401 that *is not reflected in the producer's registration information* on file with the EPA must update its registration information *and submit a copy of an updated QAP* on file with the EPA at least 60 days prior to producing the new type of renewable fuel.
- (ii) Any independent third-party auditor *who makes any other changes to a QAP* that will affect the third-party auditor's registration information *but will not affect the renewable fuel category for which the producer is registered* per paragraph (b) of this section must update its registration information 7 days prior to the change.
- (iii) Independent third-party auditors must *update their QAPs* at least 60 days prior to verifying RINs generated by a renewable fuel facility *uses a new pathway*.
- (iv) Independent third-party auditors must *update their QAPs* at least 60 days prior to verifying RINs generated by any renewable fuel facility not identified in their existing registration.

79 Fed. Reg. at 42,116 (new 40 C.F.R. § 80.1450(g)(9)) (emphasis added). It is unclear how a producer's registration relates to the need for the auditor to update its registration under clause (i), or more important why such update is tied to the facility's production of renewable fuel. The QAP is voluntary and totally unrelated to a producer's ability to produce fuel under the RFS2 program. With respect to clause (ii), it is unclear how any changes to a QAP will affect the renewable fuel category for which a *producer* is registered. Clause (iii) makes no grammatical sense, and it is unclear how it is intended to be different than clause (i). NBB does not take issue with whether updates to a registration are necessary, but the provisions are not clear and can create confusion. The update requirements also could be simplified to require a registration update whenever the information required under Section 80.1450(g)(1)-(8) becomes incomplete, is determined to be inaccurate, or when a QAP requires revision under Section 80.1469(f).¹⁸ EPA could still retain a specific provision requiring updates anytime an auditor signs a new facility to its audit program to ensure the appropriate affidavits are on file with EPA 60 days prior to verifying any RINs, as other changes may not require a 60-day lead time. But, the provision, as currently written, is confusing and may not address key pieces of information required as part of an auditor's registration, such as new facilities becoming subject to an audit and the auditor's independence.

Second, while referring to "registration updates," each of the provisions under Section 80.1450(g)(9) references updates or changes to the QAPs. But, elsewhere in Section 80.1469(e) and (f) EPA provides for the annual submission of QAPs and revision of QAPs. NBB noted that the proposed rule was unclear as to how the QAP annual approval process was different from the requirement that the auditor undergo an annual renewal registration.

The requirement to revise a QAP does not cross-reference the need to update an auditor's registration, although it appears that some of the triggers for such updates are similar to the triggers for a revised QAP. A revised QAP must be submitted to EPA when:

any of the following changes occur at a production facility audited by a third-party independent auditor and the auditor does not possess an appropriate pathway-specific QAP that encompasses the changes:

- (i) Change in feedstock.
- (ii) Change in type of fuel produced.
- (iii) Change in facility operations or equipment that may impact the capability of the QAP to verify that RINs are validly generated.

79 Fed. Reg. at 42,121 (new 40 C.F.R. § 80.1469(f)). While EPA outlines timing for "registration updates," there are no similar deadlines under 40 C.F.R. § 80.1469(f) and no cross-reference to the deadlines in Section 80.1450(g)(9). The final QAP Rule does not address these questions and, thus, the provisions remain confusing, requiring, at a minimum, clarification from EPA as to how these provisions are intended to interact with each other.

¹⁸ The annual registration renewals do require updated information, but certain changes should be brought to EPA's attention as soon as possible.

Finally, EPA has indicated that an approved QAP is necessary for the verification of any RINs, but that a QAP is only valid for one year. NBB commented that EPA should provide sufficient time before a QAP expires to review and approve the QAPs to ensure no gaps in coverage for the participating parties or that EPA should provide a type of “permit shield” for RINs being verified pending EPA’s approval.¹⁹ NBB Comments at 43-44. EPA agreed that the registration renewal process should not cause a gap in coverage, allowing registrations to be automatically renewed unless EPA issues the auditor a deficiency. 79 Fed. Reg. at 42,097. But EPA did not respond to similar comments regarding the QAP approval process. EPA should clarify that this is the same for the QAP approval process (so long as the QAP has not changed and it still covers the activities at the facility).

D. EPA Did Not Adequately Respond to Comments Regarding the Administrative Process for the Identification and Treatment of “Potentially Invalid RINs.”

EPA finalized a self-implementing administrative process for the replacement of RINs determined to be invalid, *i.e.*, potentially invalid RINs. These provisions are largely as proposed except EPA indicated it was extending the time to provide notification to EPA of potentially invalid RINs from 24 hours to five days, and clarified that QAP-verified RINs found invalid may be replaced by any type of RIN, so long as it is of the same D code (in other words, the replacement RIN should be valid, but need not also be a QAP-verified RIN). 79 Fed. Reg. at 42,085. As an initial matter, NBB notes that there appear to be conflicting provisions with respect to when an auditor must report a RIN that it believes may have been invalidly generated. Section 80.1471(d)(1) requires that the auditor provide notification to EPA and the producer that generated the RIN “within the next business day.”²⁰ 79 Fed. Reg. at 42,122 (new 40 C.F.R. § 80.1471(d)(1)). Section 80.1474(b)(3) requires notification within five business days. *Id.* at 42,124 (new 40 C.F.R. § 80.1474(b)(3)). EPA does not explain the distinction, if any, between these two provisions. It is possible that this was also a mere oversight, but a technical amendment may be necessary to remove 40 C.F.R. § 80.1471(d) to avoid any confusion between the varying requirements in these provisions.

More important, however, is that EPA failed to adequately respond to comments that RIN replacement may not be necessary for every “potentially invalid RIN.” NBB commented that the administrative process does not adequately distinguish between clear cases of fraud, which should be enforced, and inadvertent errors, which should be corrected. NBB Comments at 37. These concerns are exacerbated by the revisions to 40 C.F.R. § 80.1426(a), which could result in a mere paperwork violation rendering a RIN invalid. NBB Comments at 25-26. EPA has recognized that there are several errors that, through no fault of the producer, may result in the generation of invalid RINs. 77 Fed. Reg. 1320, 1344-1345 (Jan. 9, 2012). EPA has provided a process to correct such RINs in the regulations, *see* 40 C.F.R. § 80.1431(c), and through guidance. In response, EPA merely stated that “the RIN generator has 30 days upon identification or notification of a PIR to take a corrective action, *which still includes the remedial*

¹⁹ NBB does not dispute that RINs cannot be verified for a new pathway until a new pathway-specific QAP is approved by EPA. However, EPA should clarify, when a QAP has not changed, that any delay in EPA’s approval of the QAP does not affect the facilities being audited.

²⁰ As noted above, the QAP provisions should be clear to also include any importer that must also be subject to the QAP requirements for a RIN associated with imported renewable fuel to be verified.

actions currently available to industry.” 79 Fed. Reg. at 42,086 (emphasis added). But, the regulations only provide for two corrective actions, which are both retirement of RINs, when a potentially invalid RIN is reported by the RIN generator, and the regulations do not consider that certain remedial actions require reporting to EPA and *waiting for EPA to inform the party as to the proper action to take*. See, e.g., NBB Comments at 11-12. Responses from the support line do not always occur on a timely basis, but can include remedial actions that do not require RIN retirement.

The preamble also purports to make a distinction between a “‘potential’ problem” from a “‘confirmed’” one. 79 Fed. Reg. at 42,086. It states that “[w]hen an auditor or the EPA determines that a PIR is invalid, the RIN generator will be notified directly,” which will trigger the process of retiring a valid RIN. *Id.* Again, this ignores the provisions for when the RIN generator identifies potentially invalid RINs, which requires corrective action within 30 days for “‘potentially’” invalid RINs. Moreover, in cases where the auditor reports the potentially invalid RIN, the regulations presume invalidity, and the process places all the burden on the producer to show the RIN is not invalid. While providing for self-reports for generators, these provisions do not provide the same flexibility that currently exists. Thus, the regulations, as written, may still raise questions as far as retirement obligations and timing for corrective actions and reporting of invalidity to customers. EPA’s response to comments does not address these concerns.

In addition, EPA did not respond to NBB’s comments urging EPA to revise 40 C.F.R. § 80.1426(a)(1) so that paperwork violations do not render a RIN invalid. The statute only requires that the fuel be derived from renewable biomass and meet the lifecycle greenhouse gas reduction requirements. Missed deadlines, data entry errors, and other actions that technically may not be in compliance with the regulations do not make the gallon of fuel suddenly no longer eligible under the program. But, EPA continues to require compliance with all the applicable requirements of the RFS2 regulations to generate a RIN under 40 C.F.R. § 80.1426(a)(1). EPA does not directly address these comments, but merely restates its rationale from the proposal:

[I]n order to ensure that renewable fuel producers will maintain their records in a manner that will allow third-party auditors and the EPA to efficiently evaluate whether RINs were properly generated, we are amending § 80.1426 to state that RINs may only be generated for fuel that the producer has demonstrated, pursuant to all applicable recordkeeping requirements of § 80.1454, was produced in accordance with the applicable pathway listed in Table 1 to § 80.1426(f) or a petition approved by the EPA pursuant to § 80.1416. Furthermore, RIN generation is only appropriate for renewable fuels that carry the appropriate designation on their product transfer documents, according to the new provisions of § 80.1453(a)(12).²¹

²¹ It should also be noted that the regulatory requirements are not all related to the generation of the RIN itself, and may occur days to months after the RIN is actually generated. For example, facilities may generate RINs upon production, but do not designate the fuel on product transfer documents until shipment. EPA has long allowed producers flexibility to define batches, and these provisions raise questions as to when RINs can be generated.

But, the QAP is voluntary, and EPA does not explain why such requirements are needed for a voluntary program. Moreover, EPA does not explain why the potential penalties for failing to comply with the regulations or the desire of the facility to obtain verified RINs are not sufficient incentives for the parties to comply with the regulations. Finally, EPA does not explain why clause (iii), which requires compliance with the registration requirements, the recordkeeping requirements and “all other applicable requirements of this subpart M,” is still necessary. Indeed, EPA continues to provide new interpretations of its regulations through the support line (rather than guidance or the regulatory process), making such a broad provision lacking in notice to the producer as to what specific obligations are required to generate a RIN. Given the strict requirements of RIN replacement, inadvertent non-compliance with these requirements should not render a RIN invalid. Thus, further explanation and clarification of these provisions is warranted.

III. CONCLUSION

For the foregoing reasons, EPA should reconsider or clarify the QAP Rule with respect to the provisions related to the retirement of RINs due to export or non-qualifying downstream uses, the application of the QAP to foreign produced biofuels, the independence of the third-party auditor conducting QAPs, and the administrative process for dealing with potentially invalid RINs. The public did not have adequate opportunity to comment on these significant changes, and EPA failed to adequately respond to comments making the final determinations are arbitrary and capricious and otherwise not in accordance with the Clean Air Act. Even if EPA determines that the public had an opportunity to comment on these objections, NBB requests that EPA treat this petition as a petition for rulemaking and initiate new proceedings to make amendments to these provisions.

* * *

We appreciate the agency’s consideration of these important issues, and look forward to working with you to resolve them.

Please do not hesitate to contact the undersigned if you have any questions regarding this petition.

Respectfully submitted,



Anne Steckel
Vice-President, Federal Affairs
National Biodiesel Board

cc: Byron Bunker, EPA (Bunker.Byron@epa.gov)
Mary Manners, EPA (Manners.Mary@epa.gov)
Brenton Williams, EPA (Williams.Brenton@epa.gov)

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Michael.McAdams@hklaw.com
Sent: Tue 9/30/2014 8:23:25 PM
Subject: RE: EPA RFS Petition Review Process - New Website Posted

Thanks Paul, now we just need to hire people to review the damn things.

Michael J. McAdams | Holland & Knight

Senior Policy Advisor

2099 Pennsylvania Avenue, N.W., Suite 100 | Washington DC 20006

Phone 202.469.5140 | Fax 202.955.5564

michael.mcadams@hklaw.com | www.hklaw.com

From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]

Sent: Tuesday, September 30, 2014 4:00 PM

To: Hengst, Benjamin; Beth Elliott (elliott@dc.nega.com); bbecker@4cleanair.org; Bill Holmberg; Birgfeld, Erin; Bob Dineen; Bob Greco; Bob Leidic; Brendan Williams; Brent Erickson; Brian Jennings; Brooke Coleman; Bruce McEwen; Bryan_Dierlam@cargill.com; Bunker, Byron; Camobreco, Vincent; Carmen Difiglio; Catherine Karen; Charlie Drevna; Chris Bliley; Chris Leggett; Clayton McMartin; rcorey@arb.ca.gov; Burkholder, Dallas; Dan Gilligan; Dave Halberg; Dave Loos; David Dunn; David Holt; David Terry; David Woodruff; Dayne Delahoussaye (Dayne.Delahoussaye@nesteoil.com); RWilsonnes@aol.com; Perla, Donna; Ed Jacoby; Erin Heupel; Evan Alexander (evan.alexander@kochind.com); neville.fernandes@nesteoil.com; Frank O'Donnel; Gary Herwick; Glenn Johnston; Harry Baumes; Joe Colucci; Joe Glauber; Joe Jobe; John Braeutigam; John Cabaniss (john.cabanissjr@gmail.com); jeichberger@nacsonline.com; John Kneiss; John Reese; Weihsrauch, John; Simon, Karl; Khary Cauthen; Korotney, David; Larry Schafer; Larson, Robert; Leticia Phillips; Lie, Sharyn; Liisa Kiuru; Lindsay Fitzgerald (LECFitzgerald@gmail.com); Stewart, Lori; Loula Merkel; Machiele, Paul; Le, Madison; Mannato, Alfonse S; Markowitz, Kenneth; Marla K. Benyshek; McAdams, Michael J (WAS - X75140); Shelby, Michael; Monte Shaw; Mylan, Christopher; Nick Economides; Patrick Kelly; Phillip J Lampert; Raburn, Janice; Weber, Rebecca; Richard Moskowitz; Rob Kaufman (robert.kaufmann@kochps.com); Robert Gough; Ron Lamberty; Sandra Dunphy; Sandra Franco; Shirley Neff; Steve Johnson (hon.sljohnson@gmail.com); Steve Papaleo; Tammy Klein; Thomas White; Tim Columbus; Tim Hogan; Tim Lust; Todd Sneller; Tom Bond; Tom Buis; Tom Hance; Zia Haq

Subject: EPA RFS Petition Review Process - New Website Posted

To Interested Parties:

Over the past six months the Agency has been working to improve the quality, transparency, and efficiency of our petition review process for new biofuel pathways under Renewable Fuel Standard program. EPA has just released an updated New Pathways website that reflects the results of that process. The website now includes new tools and information resources that provide basic information quickly and easily for our stakeholders. Some of the highlights of these changes include:

- Petitions can now be submitted electronically through the secure CDX/OTAQREG online portal.
- EPA has developed a new *Pathway Screening Tool*, which is intended to improve the petition process by giving potential petitioners a way to receive tailored information from the Agency before they start preparing their petition.
- EPA has drafted step-by-step instructions for how to prepare a complete petition.

We appreciate all of the input received by our stakeholders during this improvement process, and EPA continues to welcome input from our stakeholders with ideas about how to continue to improve the petition process.

Please see <http://www.epa.gov/otaq/fuels/renewablefuels/new-pathways> for more information.

Paul Argyropoulos

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Larry Schafer
Sent: Tue 9/30/2014 8:04:30 PM
Subject: RE: EPA RFS Petition Review Process - New Website Posted

Thanks Paul.

Larry Schafer

National Biodiesel Board

O: 202.737.8801

M: 202.997.8072

LSchafer@Biodiesel.org

Biodiesel – America’s Advanced Biofuel!

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From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]
Sent: Tuesday, September 30, 2014 4:00 PM
To: Hengst, Benjamin; Beth Elliott (elliott@dc.ncga.com); bbecker@4cleanair.org; Bill Holmberg; Birgfeld, Erin; Bob Dineen; Bob Greco; Bob Leidic; Brendan Williams; Brent Erickson; Brian Jennings; Brooke Coleman; Bruce McEwen; Bryan_Dierlam@cargill.com; Bunker, Byron; Camobreco, Vincent; Carmen Difiglio; Catherine Karen; Charlie Drevna; Chris Bliley; Chris Leggett; Clayton McMartin;

rcorey@arb.ca.gov; Burkholder, Dallas; Dan Gilligan; Dave Halberg; Dave Loos; David Dunn; David Holt; David Terry; David Woodruff; Dayne Delahoussaye (Dayne.Delahoussaye@nesteoil.com); RWilsonnes@aol.com; Perla, Donna; Ed Jacoby; Erin Heupel; Evan Alexander (evan.alexander@kochind.com); neville.fernandes@nesteoil.com; Frank O'Donnel; Gary Herwick; Glenn Johnston; Harry Baumes; Joe Colucci; Joe Glauber; Joe Jobe; John Braeutigam; John Cabaniss (john.cabanissjr@gmail.com); jeichberger@nacsonline.com; John Kneiss; John Reese; Weihrauch, John; Simon, Karl; Khary Cauthen; Korotney, David; Larry Schafer; Larson, Robert; Leticia Phillips; Lie, Sharyn; Liisa Kiuru; Lindsay Fitzgerald (LECFitzgerald@gmail.com); Stewart, Lori; Loula Merkel; Machiele, Paul; Le, Madison; Mannato, Alfonse S; Markowitz, Kenneth; Marla K. Benyshek; Michael McAdams (Michael.McAdams@hklaw.com); Shelby, Michael; Monte Shaw; Mylan, Christopher; Nick Economides; Patrick Kelly; Phillip J Lampert; Raburn, Janice; Weber, Rebecca; Richard Moskowitz; Rob Kaufman (robert.kaufmann@kochps.com); Robert Gough; Ron Lamberty; Sandra Dunphy; Sandra Franco; Shirley Neff; Steve Johnson (hon.sljohnson@gmail.com); Steve Papaleo; Tammy Klein; Thomas White; Tim Columbus; Tim Hogan; Tim Lust; Todd Sneller; Tom Bond; Tom Buis; Tom Hance; Zia Haq
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Web: www.epa.gov

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Lindsay Fitzgerald
Sent: Tue 9/30/2014 7:22:33 PM
Subject: RE: just had lunch with Venu...

Caribou on 13th between F and G or somewhere else new.

I can be in at 8 or we can do 8:30...

From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]
Sent: Tuesday, September 30, 2014 2:59 PM
To: Lindsay Fitzgerald
Subject: RE: just had lunch with Venu...

OK. What time? Where?

Paul Argyropoulos

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Web: www.epa.gov

From: Lindsay Fitzgerald [mailto:lfitzgerald@biodiesel.org]
Sent: Tuesday, September 30, 2014 2:56 PM
To: Argyropoulos, Paul
Subject: RE: just had lunch with Venu...

Let's do Tuesday morning coffee ☺

From: Argyropoulos, Paul [<mailto:Argyropoulos.Paul@epa.gov>]
Sent: Tuesday, September 30, 2014 2:51 PM
To: Lindsay Fitzgerald
Subject: RE: just had lunch with Venu...

I could do Tuesday for Coffee in the morning. Or, late lunch (for me) at 1:30.

Thursday I could do Coffee or Lunch (any time after 11).

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

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From: Lindsay Fitzgerald [<mailto:lfitzgerald@biodiesel.org>]
Sent: Tuesday, September 30, 2014 2:49 PM

To: Argyropoulos, Paul
Subject: RE: just had lunch with Venu...

Mondays are full of meetings...not enough time to converse....any other day is open...unless I get on a plane to Ann Arbor to meet with Byron...ha!

From: Argyropoulos, Paul [<mailto:Argyropoulos.Paul@epa.gov>]
Sent: Tuesday, September 30, 2014 2:47 PM
To: Lindsay Fitzgerald
Subject: RE: just had lunch with Venu...

This place just keeps getting better and better and better.....

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Glad to hear you're moved in and that you are even "happier". Love to hear all about it. Let me know if Monday can work. If not, we can shoot for another day next week.

Paul

Paul Argyropoulos
Senior Policy Advisor
US EPA
Office of Transportation and Air Quality
Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@cpa.gov

Web: www.cpa.gov

From: Lindsay Fitzgerald [<mailto:lfitzgerald@biodiesel.org>]

Sent: Tuesday, September 30, 2014 2:39 PM

To: Argyropoulos, Paul

Subject: just had lunch with Venu...

What the heck is going on over there...is everyone picking up and moving to Ann Arbor?

I'm sorry for falling off the face of the Earth...moving is stressful. More stressful than it needed to be.

BUT now we are in and getting settled and it is beyond wonderful. I had no clue that we could be this much happier.

So, for real, when are you open for coffee or lunch or a walk?

I'm out of the office Friday so I can do the car registration and get my license, but otherwise available.

I hope all is well and you are in somewhat of a happy place over there.

Lindsay

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Lindsay Fitzgerald
Sent: Tue 9/30/2014 6:55:42 PM
Subject: RE: just had lunch with Venu...

Let's do Tuesday morning coffee ☺

From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]
Sent: Tuesday, September 30, 2014 2:51 PM
To: Lindsay Fitzgerald
Subject: RE: just had lunch with Venu...

I could do Tuesday for Coffee in the morning. Or, late lunch (for me) at 1:30.

Thursday I could do Coffee or Lunch (anytime after 11).

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Lindsay Fitzgerald [<mailto:lfitzgerald@biodiesel.org>]
Sent: Tuesday, September 30, 2014 2:49 PM
To: Argyropoulos, Paul
Subject: RE: just had lunch with Venu...

Mondays are full of meetings...not enough time to converse....any other day is open...unless I get on a plane to Ann Arbor to meet with Byron...ha!

From: Argyropoulos, Paul [<mailto:Argyropoulos.Paul@epa.gov>]
Sent: Tuesday, September 30, 2014 2:47 PM
To: Lindsay Fitzgerald
Subject: RE: just had lunch with Venu...

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Lindsay

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Lindsay Fitzgerald
Sent: Tue 9/30/2014 6:48:55 PM
Subject: RE: just had lunch with Venu...

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From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]
Sent: Tuesday, September 30, 2014 2:47 PM
To: Lindsay Fitzgerald
Subject: RE: just had lunch with Venu...

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Lindsay

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Lindsay Fitzgerald
Sent: Tue 9/30/2014 6:39:18 PM
Subject: just had lunch with Venu...

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I hope all is well and you are in somewhat of a happy place over there.

Lindsay

From: Michael.McAdams@hklaw.com
Sent: Tuesday, September 30, 2014 12:20 PM
To: Argyropoulos, Paul
Subject: FW: BIOFUELS UPDATE: ***What Goes On When Stakeholders Visit OMB about a Final Rule

I thought this was a pretty interesting read.

Michael J. McAdams | Holland & Knight
Senior Policy Advisor
2099 Pennsylvania Avenue, N.W., Suite 100 | Washington DC 20006 Phone 202.469.5140 | Fax 202.955.5564
michael.mcadams@hklaw.com | www.hklaw.com

-----Original Message-----

From: opisethanol@opisnet.com [mailto:opisethanol@opisnet.com]
Sent: Tuesday, September 30, 2014 11:32 AM
To: OPIS Ethanol Updates
Subject: BIOFUELS UPDATE: ***What Goes On When Stakeholders Visit OMB about a Final Rule

2014-09-30 11:32:06 EDT

***What Goes On When Stakeholders Visit OMB about a Final Rule

In the last several weeks, more than a dozen trade associations and individual companies affected by the Renewable Fuel Standard have met with staff at the Office of Management and Budget (OMB) to explain their perspective on the proposed 2014 Renewable Volume Obligations. These stakeholders have represented biofuel producers and farm groups, as well as refiners and fuels buyers.

But what is the purpose of those meetings? Can any information at this stage influence the outcome of the 2014 RFS, given that EPA has pored over the numbers for months and months?

Participants in those meetings say yes.

"OMB is quite powerful. It has the ability to influence the rulemaking process - sitting on a rule or asking EPA to make changes," said LeAnn Johnson Koch, partner with Perkins Coie LLP, a law firm that represents refiners.

Koch's clients want the 2014 biofuels mandates to be reduced or, at least, not be increased above the proposed levels. Many of Koch's clients are "merchant refiners" -- those that do not have significant blending capabilities -- and must purchase RINs for compliance. They have argued that with RINs prices remaining above 40cts, well in excess of the nominal cost of blending, the financial impact on them is untenable, unintended and should be fixed by EPA through revisions to the underlying rule.

"You hope to persuade OMB to your side -- but, of course, other interests are coming in and making the opposite argument," she said. "The executive order that governs OMB's review of regulations is ambiguous about whether it can outright reject a rule, but it ... [has] a lot of leverage."

To some extent, according to one association executive with an interest in the RFS, it's theater. "It would be professional malfeasance not to take your last shot at influencing the decision. Even if EPA has heard it all before, you have to be able to tell your members that want to plead their case one last time,"

said the executive.

But in a very real sense, the OMB review is an opportunity to exercise persuasive powers about the many "judgment calls" that go into any regulation, said the association executive. Presenting evidence about the economic or policy impact of those judgments, or even the legal justification (or lack thereof), could be influential at this stage.

"Consider the biomass diesel rule," the executive said. "The statute says that the number must be announced by EPA 14 months in advance if it's going to be above the statutory level, which would be 1.28 billion gallons for 2014. This is so that the obligated parties can be ready. EPA didn't make that deadline, but it has determined that the industry can 'reasonably' produce well above 1.28 billion gallons, and the court has told EPA to pick a number that the biofuels industry can 'reasonably' produce."

Whether EPA should be forced to follow the letter of the law in terms of the deadline, or whether it should follow the court's support of 'reasonable'

blending volume is the type of judgment call that EPA has to make, said the executive. "How you present that issue can make a difference," the executive added.

Typically, a stakeholder will be given a 30-minute period in which to state its position. Government representatives will ask questions and seek clarity on the issues that matter to them. They will not discuss the details of the draft proposal, nor indicate what they are considering.

It's important to note that OMB and EPA are not the only parties in the room.

When Johnson Koch went on behalf of merchant refiners, staff from USDA, the Office of Information and Regulatory Affairs (OIRA) and the Council on Environmental Quality also participated. "In our meeting, OIRA seems to be most deeply engaged," she said.

The participants are well-versed in the issue, said the association executive.

"You'd have to be naive to think that all the people asking questions had not considered these things before," said the executive. "But they are trying to get to the heart of the judgment calls, the policy and economic issues, and the legal angles, too."

OMB looks at pros and cons, costs and benefits. Its perspective goes into the mix of issues that EPA considers as it fine-tunes the rule and seeks final approval. But it's also the venue through which other government representatives hear the final arguments for or against a policy from those industries that are affected.

"EPA has jurisdiction on the RFS, but other agencies and the White House have influence," said the association executive. "There are a lot of cooks in the kitchen. It's a balancing act, and OMB is the mechanism to come to a consensus on the policy and the allocation of society's resources."

--Kevin Adler, kadler@opisnet.com

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: BIO - Biotechnology Industry Organization
Sent: Thur 9/25/2014 3:45:00 PM
Subject: BIO Newsletter: September 25, 2014
MAIL_RECEIVED: Thur 9/25/2014 4:05:59 PM

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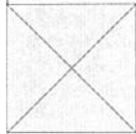


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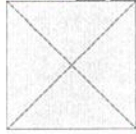


GREENHOUSE GAS EMISSIONS

EPA Inaction on the RFS Rule Is Causing an Increase in GHG Emissions

Increased greenhouse gas emissions equal to 4.4 million additional cars on U.S. roads are likely as a result of EPA inaction on finalizing the 2014 Renewable Fuel Standard rules. BIO issued a white paper updating earlier published estimates of the greenhouse gas emissions resulting from EPA's proposal to reduce biofuel use during 2014...

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BUSINESS AND INVESTMENTS

FierceBiotech Names 2014 Fierce 15

FierceBiotech released their much-anticipated 2014 Fierce 15 list, their annual list of private biotech upstarts to watch. We'll be hearing from three of them at next month's BIO Investor Forum, October 7-8 in San Francisco...

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ED-000313- 6365- 0000 2457

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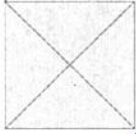


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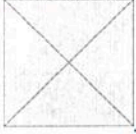


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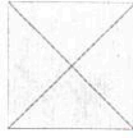


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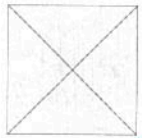


GOVERNOR OF THE YEAR

South Dakota Gov Daugaard Recieves BIO Food & Agriculture Award

BIO presented South Dakota
Governor Dennis Daugaard the first
ever Food and Agriculture Governor of
the Year Award at the 2014 Livestock
Biotech Summit...




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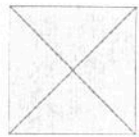


HEALTH

High Drug Co-pays Deny Needed Treatments

The San Francisco Chronicle
published an op-ed that I wrote on the
importance of ensuring access to
treatments for debilitating diseases
that are saving millions of patients
from pain and possible death...

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VACCINES

Vaccines – Calling the Shots

PBS's NOVA recently had an episode
on the reemergence of diseases that
had previously been largely
eradicated in the U.S. by vaccines, in
part because nervous parents are
skipping their children's shots...

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LIVESTOCK BIOTECH SUMMIT

2014 BIO Livestock Biotech Summit Concludes with a Glance into the Future of Animal Biotechnology

This year's Summit hosted 150 attendees, 8 media representatives and several students from local colleges and universities. High profile speakers for this year's Summit included Dr. James Murray, Dr. Richard Raymond, Dr. Sonny Ramaswamy, and journalist Christie Nicolson...

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ANIMAL BIOTECHNOLOGY

Scientific Community Urges Obama to Support Biotechnology

A number of media outlets are reporting on a letter to President Obama urging approval for the genetically engineered AquAdvantage® Salmon...

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INDUSTRY ANALYSIS

The Eyes Have It According to Recent VC Funding Patterns

A recent Wall Street Journal analysis of venture capital investment trends since 1999 reveals which human body parts are experiencing the biggest rise in funding...

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HEALTH

Ebola Outbreak Highlights Value of Cures

Forbes recently published an article comparing the value of Ebola virus cures, highlighting the importance of preventing disease...

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HEALTH



Ebola Outbreak Highlights Value of Cures

Forbes recently published an op-ed comparing the outbreak and spread of the Ebola virus with the value of cures to prevent disease and save lives...

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FOOD AND AGRICULTURE

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HEALTH



Tekmira Pharmaceuticals Ebola Drug Gets Nod From FDA

The U.S. Food and Drug Administration has authorized Canada's Tekmira Pharmaceuticals to provide an experimental drug to people with confirmed or suspected Ebola virus infections...

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FOOD AND AGRICULTURE

Herbicides and 2, 4-D: Cutting Through the Controversy

A number of media outlets reported on last week's decision by the USDA to approve
the use of genetically modified corn and soybean seeds that are resistant to the
herbicide known as 2, 4-D...



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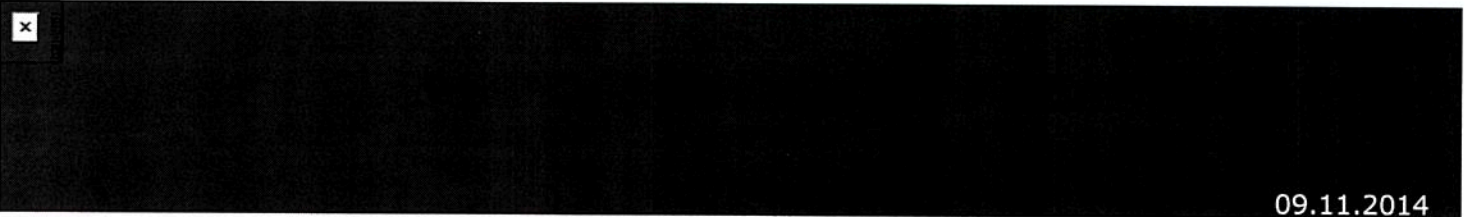
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To: Argyropoulos, Paul
Subject: BIO Newsletter: September 11, 2014

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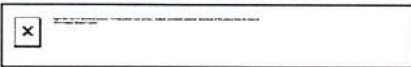


21ST CENTURY CURES

Jim Greenwood: Biopharma Answers the Call for Cures

BIO President and CEO Jim Greenwood participated in a roundtable hosted by Congressman Joe Pitts to discuss how to expedite cures and treatments with leading national, regional and local health care innovators from the government, private and public sectors...

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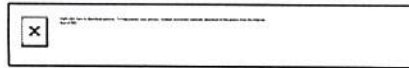


LIVESTOCK BIOTECH SUMMIT IP Rights to Newsworthy Keynotes, BIO Takes a Fresh Look into Animal Biotech

BIO's Livestock Biotech Summit three day program will include a number of leading experts in the field of animal biotechnology to share their experiences and insights into this promising field, including keynote addresses by

FT. 000313.0365. 00002459

Dr. Richard Raymond and Dr.
James Murray...



BIO INVESTOR FORUM

Buzz of BIO winners at the 2014 BIO Investor Forum™

Building on the success of the Buzz of BIO competition at the BIO International Convention, BIO recently hosted a similar competition for the upcoming BIO Investor Forum. The first Buzz of BIO at the BIO Investor Forum competition featured 18 nominees pulling in over 1,300 votes...

Share:   

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2015 BIO INTERNATIONAL CONVENTION

BIO 2015 Program Co-Chair Asks the Question - Will You Be A Change Agent in 2015

Rob Wright of Life Science Leader challenges biotechnology, pharmaceutical, business development, life sciences and policy experts to be a change agent in 2015...

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HEALTH

Jack the Ripper Mystery May Be Solved through DNA Testing

Author Russell Edwards and Jari Louhelainen, a molecular biology professor at Liverpool John Moores University claim to have solved the 126-year-old mystery surrounding the identity of Jack the Ripper...

Share:   

BIOFUELS

Iowa Turns Out for Grand Opening of Cellulosic Biofuels Project

Project Liberty is the first plant developed out of a joint venture between Royal DSM and Sioux Falls-based POET. POET-DSM hosted a well-

deserved celebration of their technological and engineering achievement...

Share:   

BIOSIMILARS

Pitts Sounds off on Biosimilar Naming

Peter J. Pitts, President, Center for Medicine in the Public Interest and Former Associate Commissioner, U.S. Food and Drug Administration, asserts that those who view distinctive biosimilar nomenclature naming as either contrary to safety or anti-competitive are addressing these issues through a single dimension...

Share:   

FOOD LABELING

Pro-GMO Labeling Business Faces Own Labeling Dilemma

The Center for Consumer Freedom recently published an interesting piece on Dr. Bronner's Magic Soaps and his run in with the FDA. You may know that Dr. Bronner's Magic Soaps is an outspoken advocate of the scientifically suspect "GMO labeling" movement...

Share:   

HEALTH

BIO Participating in IDSA Stakeholder Group on Antimicrobial Resistance

BIO will be participating in a newly formed partnership which will work collaboratively to inform federal policy and find ways to better combat the growing crisis of antimicrobial resistance...

Share:   

VACCINES

The Best Conspiracy Theories Never Die

There are no aliens at Area 51, Elvis has left the building, Obama was born in the USA - and Jenny McCarthy's willfully ignorant anti-vaccine campaign has endangered lives...

Share:   

EMERGING COMPANIES

Roadblocks and Red Tape Block Search for Cures

Since its passage more than two years ago, the JOBS Act has spurred more than 110 biotech IPOs. And now the SEC is in the process of finalizing another important piece of the law that could further encourage biotech capital formation...

Share:   

ALZHEIMER'S

The New Republic: We are Entering the Age of Alzheimer's

The New Republic published a lengthy, powerful piece by Kent Russell on Alzheimer's. Russell opens the piece by noting that we are approaching a public health crisis in Alzheimer's and dementia...

Share:   

21ST CENTURY CURES

Pennsylvania Roundtable Answers the Call for Cures

Congressman Joe Pitts (PA-16) recently hosted a roundtable in Lancaster to discuss how to expedite cures and treatments with leading national, regional and local health care innovators from the government, private, and public sectors...

Share:   

LIVESTOCK BIOTECH SUMMIT

Summit to Explore Livestock Biotech Advances

A former undersecretary of agriculture for food safety, Richard Raymond, will be a keynote speaker at this year's Livestock Biotech Summit in Sioux Falls...

Share:   

LIVESTOCK BIOTECH SUMMIT

GMO Labeling: a Debate for the Well-Fed

BIO wanted to bring to your attention a great piece by Dr. Richard Raymond, former USDA undersecretary for food safety and scheduled keynoter at this month's BIO Livestock Biotech Summit...

Share:   



HEALTH

Patients Suffering from Gaucher's Disease Deserve Better

Gaucher Disease is one of the over 6,000 rare diseases that affect patients worldwide, representing a frontier of unmet medical need...

Share:   

INDUSTRY ANALYSIS

Biotech Analyst Optimism: Price Targets Post-IPO

In a recent blog post, Bruce Booth of Life Sci VC, writes about the relationship between a forecasted price target of a biotech stock and its current share price...

Share:   

BIO LATIN AMERICA CONFERENCE

Partnering in Latin America, According to the Experts

Latin America is a hotbed for biotech activity. I recently sat down with four movers and shakers in Latin American biotech to get their thoughts and perspectives...

Share:   

09.16.14

Livestock Biotech Summit

This unique conference offers a focus on genetic engineering of agricultural animals including benefits, research and development, regulatory system, and challenges to advancing health, food and industrial applications of animal biotechnology...

[REGISTER](#)

10.07.14

BIO Investor Forum

The BIO Investor Forum is an international biotech investor conference focused on early and established private companies as well as emerging public companies. The event features plenary sessions, business roundtables and therapeutic workshops, company presentations, and One-on-One Partnering™ meetings...

[REGISTER](#)

11.03.14

BIO-EUROPE

The 20th annual BIO-Europe is Europe's largest partnering conference serving the global biotechnology industry...

[LEARN MORE](#)

11.10.14

BIO IPCC Conference

The biannual BIO Intellectual Property Counsels Committee Conference offers timely, relevant educational sessions on the latest issues in the biotech IP sector, informal networking events designed to promote discussion and foster relationships among industry colleagues, and practical tips for attendees to use the next day...

REGISTER

12.7.14

Pacific Rim Summit on Industrial Biotechnology & Bioenergy

The ninth annual Pacific Rim Summit on Industrial Biotechnology and Bioenergy is the original conference dedicated solely to the growth of the industrial biotechnology and bioenergy sectors in North America and the Asia-Pacific region. The 2014 event will be held in San Diego, California from December 7 -9, 2014 at the Westin Gaslamp Quarter...

SAVE THE DATE



**Senior Director/ Vice
President Quality, NewLink
Genetics Corporation**

Ames, Iowa, United States

August 22, 2014

Principal Scientist -
Medicinal Chemist,
Ensemble Therapeutics
Cambridge, Massachusetts, United
States
August 28, 2014

Director Franchise Marketing
MS Global Comm, Genzyme
Cambridge, Massachusetts, United
States
September 5, 2014

Senior Research Associate,
Virology, Battelle National
Biodefense Institute
Frederick, Maryland, United States
August 28, 2014

Commercialization Officer,
Vaccine Development, PATH
Seattle, Washington, United States
August 28, 2014

POST A BIOTECHNOLOGY JOB >



Ending Friday and the week on a very
happy note: great news for
autoimmune disease!

17 LIKES | JOIN



What's happening in Rio? Innovation
& partnering opps in Latin America's
hot life science industry #BIOLatAm14
<http://ow.ly/B75aU>

5 RETWEETS | JOIN



Graduates with science, technology, engineering, and math (STEM) degrees were the least likely to be underemployed. In fact, 9 of the top 10 least underemployed majors were in a STEM.

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This message was intended for: argyropoulos.paul@epamail.epa.gov
You were added to the system January 30, 2009. For more information
[click here](#)
[Update your preferences](#) | [Unsubscribe](#)

Meekins, Tanya

From: Brooke Coleman <BColeman@advancedethanol.org>
Sent: Wednesday, September 10, 2014 8:01 AM
To: Grundler, Christopher; Argyropoulos, Paul
Subject: New letter
Attachments: Iowa Innovation Letter POTUS Final.pdf

See attached. Corporate led but wanted to make sure you have it. Hope you are well. -b

ABENGOA BIOENERGY



September 9, 2014

The Honorable Barack Obama
President
United States of America
The White House
Washington, DC 20500

Dear Mr. President,

When Congress passed a strengthened Renewable Fuel Standard (RFS) in 2007, Iowa responded. The country's leading biofuel producing state has doubled production in the last six years and the industry now employs more than 70,000 Iowans. Iowa delivered almost as much fuel to Americans in 2013 as we imported from Iraq. Nationally, our industry displaced the need for the U.S. oil import equivalent of Saudi Arabia.

What often goes unnoticed is the fact that Iowa is also leading the charge when it comes to the commercial deployment of the lowest carbon fuel in the world: cellulosic ethanol. Iowa is home to the first wave of commercial scale cellulosic ethanol refineries in the country, with another project being commercialized simultaneously in nearby Kansas. Each of them will convert agricultural residue or municipal solid waste into clean burning fuel to power America's engines and reduce our dependence on foreign oil.

In essence, the RFS gives the advanced biofuel industry an opportunity to break into a motor fuel supply chain dominated by oil interests. The long range policy certainty created by the RFS – together with your Administration's commitment to the industry – made it possible for our companies to invest billions of dollars to commercialize our technologies and build the most innovative refineries in the world.


But late last year, your Administration reversed course. In a rule not yet finalized, EPA is proposing to not only cut the amount of renewable fuel in America's gasoline supply but also fundamentally change how the RFS is administered and how annual targets are calculated for 2014, 2015 and beyond. Instead of basing the targets on our industry's ability to produce and deliver fuel, the proposal would allow the targets to be reduced if the oil industry refuses to make renewable fuels available to the consumer. The RFS attracted billions of dollars in private sector investment into cellulosic ethanol production because it changes this dynamic, by overrunning the restrictive contracts oil companies impose on distributors and retailers to discourage or block the use of renewable fuels. If the program moving forward reflects rather than mitigates the oil industry's unwillingness to market renewable fuel, the policy will cease to be effective and the cellulosic ethanol industry will develop overseas in Asia and South America.

While we are hearing that your Administration will increase the proposed renewable fuel targets in the final rule, your decision about how EPA derives these targets every year is far more important to investors. The current EPA proposal froze investment in cellulosic ethanol not because of the 2014 targets; but rather, because it is not clear whether oil companies will be obligated to hit any annual RFS targets going forward. If the proposed methodology is not fixed in the final rule, the United States will no longer be the global leader for advanced biofuel investment and the 2014 rule will have inadvertently done more than your worst critics have to harm a low carbon industry you have always championed.


While the current proposal has already curtailed investment and delayed projects, there is still time to get the RFS back on track. Investments that you made during your first term are ready for deployment. The question at hand is whether the return on investment will flow predominantly to the United States, or whether countries like China and Brazil will reap the economic and environmental rewards of technologies pioneered in America. Again, the key to success is preserving the original intent of the program that flexibly but resolutely forces oil companies to introduce low carbon, renewable fuels into the U.S. motor fuel pool.

Back in 2007, you said "the road to change begins in Iowa." We still believe that the Midwest holds the key to our energy future. You have the opportunity, with this rule, to shape our national energy and climate future for decades to come. And we are here to help you achieve your goals.

Sincerely,



Javier Garoz Neira
Chief Executive Officer
Abengoa Bioenergy



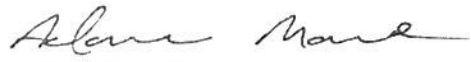
Jan Koninckx
Global Business Director for Biorefineries
DuPont Industrial Biosciences



Craig Stuart-Paul
Chief Executive Officer
Fiberight



Bill Brady
Chief Executive Officer
Mascoma Corporation



Adam Monroe
President the Americas
Novozymes



Steve Hartig
General Manager, Licensing
POET-DSM Advanced Biofuels

A handwritten signature in black ink, appearing to read "Delayne Johnson". The signature is fluid and cursive, with the first name "Delayne" and the last name "Johnson" clearly distinguishable.

Delayne Johnson
Chief Executive Officer
Quad Country Corn Processors